FEDERAL REGISTER

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Business and Defense Services Administration
Census Bureau
Civil Aeronautics Board
Commerce Department
Consumer and Marketing Service
Customs Bureau
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Federal Power Commission
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
Health, Education, and Welfare Department
Interior Department
Internal Revenue Service
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Land Management Bureau
Public Health Service
Securities and Exchange Commission
Small Business Administration

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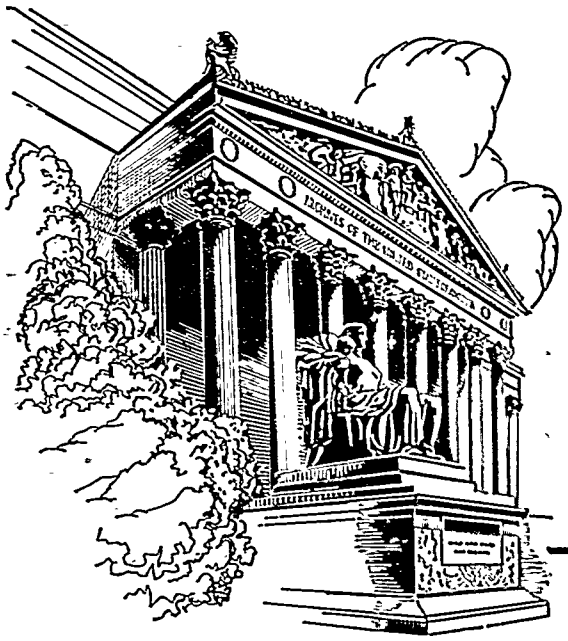

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Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 729—PEANUTS

Subpart—1968 Crop of Peanuts; Acreage Allotments and Marketing Quotas

Basis and purpose. The provisions of §§ 729.1810 to 729.1813 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1968 crop of peanuts. The purposes of §§ 729.1810 to 729.1813 are to proclaim a national marketing quota, establish the national acreage allotment and apportion such allotment to the States for the 1968 crop of peanuts in accordance with section 358 of the act (7 U.S.C. 1358). The findings and determinations made with respect to these matters are based on the latest available statistics of the Federal Government.

Notice that the Secretary was preparing to determine the acreage allotments and marketing quota for the 1968 crop of peanuts was published in accordance with 5 U.S.C. 553 (80 Stat. 383) in the FEDERAL REGISTER of August 18, 1967 (32 F.R. 11957). No submissions were received in response to such notice. In order that peanut farmers may be notified as soon as possible of farm allotments for the 1968 crop of peanuts, it is essential that §§ 729.1810 to 729.1813 be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and §§ 729.1810 to 729.1813 shall be effective upon filing of this document with the Director, Office of the Federal Register.

Sec.

729.1810 Proclamation of national marketing quota for the 1968 crop of peanuts.
729.1811 National acreage allotment for the 1968 crop of peanuts.
729.1812 National reserve for new farms.
729.1813 Apportionment to States.

AUTHORITY: The provisions of this subpart issued under secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1358, 1375.

§ 729.1810 Proclamation of national marketing quota for the 1968 crop of peanuts.

(a) *Statutory requirement.* Section 358(a) of the act provides that between July 1 and December 1 of each calendar year the Secretary shall proclaim a national marketing quota for the crop of peanuts to be produced in the next succeeding calendar year. The quota for such crop shall be a quantity of peanuts which will make available for marketing a supply equal to the average quantity of peanuts harvested for nuts during the immediately preceding 5 years, adjusted for current trends and prospective demand conditions. The national marketing quota shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres.

(b) *Findings and determinations.* The following findings and determinations under section 358(a) of the act are hereby made:

(1) Average quantity of peanuts harvested for nuts during the 5-year period 1962–66, adjusted for current trends and prospective demand conditions—890,000 tons;

(2) Normal yield per acre of peanuts for the United States on the basis of the average yield per acre of peanuts in the 5-year period 1962–66, adjusted for trends in yields and abnormal conditions of production affecting yields—1,850 pounds;

(3) Conversion of the quantity of peanuts determined under (1) of this paragraph into acres on the basis of the normal yield with an adjustment for underharvesting—1,162,000 acres;

(4) Conversion of the minimum national acreage allotment of 1,610,000 acres into tons of quota on the basis of the normal yield—1,489,250 tons.

(c) *National marketing quota.* The national marketing quota for the 1968 crop of peanuts is hereby proclaimed to be 1,489,250 tons on the basis of the minimum national acreage allotment determined under paragraph (b)(4) of this section since such amount of quota would not be obtained by the smaller amount determined under paragraph (b)(3) of this section.

§ 729.1811 National acreage allotment for the 1968 crop of peanuts.

The national acreage allotment for the 1968 crop of peanuts based on the national marketing quota under § 729.1810 (c) is hereby established at 1,610,000 acres.

§ 729.1812 National reserve for new farms.

Section 358(f) of the act provides for the establishment of a national reserve of not more than 1 percent of the national acreage allotment for apportionment among farms on which peanuts are to be produced in 1968 but on which peanuts were not produced during any of the years 1965, 1966, or 1967. A national reserve for such new farms in the amount of 1,610 acres is hereby established.

§ 729.1813 Apportionment to States.

The national acreage allotment for the 1968 crop of peanuts of 1,610,000 acres, less the national reserve for new farms of 1,610 acres, is hereby apportioned to the States on the basis of their share of the national acreage allotment for 1967 as provided under section 358(c)(1) of the act:

State	*State acreage allotment*
Alabama	217,352
Arizona	713
Arkansas	4,194
California	933
Florida	55,300
Georgia	528,347
Louisiana	1,951
Mississippi	7,513
Missouri	247
New Mexico	5,612
North Carolina	168,286
Oklahoma	138,415
South Carolina	13,858
Tennessee	3,618
Texas	356,950
Virginia	105,101
Total apportioned to States	1,608,390
National reserve for new farms	1,610
Total, United States	1,610,000

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 26, 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-12943; Filed, Nov. 1, 1967; 8:47 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Because of the number and complexity of published amendments to Part 108 of Chapter I of Title 13 of the Code of Federal Regulations (30 F.R. 11024; 31 F.R. 9270, 14516; 32 F.R. 4405, 12387), Part 108 is recodified and republished as set forth below with miscellaneous minor revisions. As recodified and revised, Part 108 reads as follows:

GENERAL

Sec.

108.1 Policy.
108.2 Definitions.
108.3 Procedures for loan applications.
108.4 Administrative authority.

LOANS UNDER SECTION 501

Sec.
108.501 Statutory provision.
108.501–1 Section 501 loans.

LOANS UNDER SECTION 502

108.502 Statutory provision.
108.502–1 Section 502 loans.

AUTHORITY: The provisions of this Part 108 issued under sec. 5, Pub. Law 85–536, secs. 201, 308, Pub. Law 85–699.

GENERAL

§ 108.1 Policy.

(a) As part of the congressional policy to improve and stimulate the national economy in general, and the small-business segment thereof in particular, by establishing a program to stimulate the flow of private equity capital and long-term loans for the sound financing of the operations, growth, expansion, and modernization of small-business concerns, the Small Business Administration is authorized to make loans to State and local development companies which will further that policy. This policy shall be carried out in such manner as to insure the maximum participation of private financing sources. No such loan shall be made if the effect thereof will be to cause a substantial increase of unemployment in any area of the country.

(b) The Government of the United States has declared that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Title VI of the Civil Rights Act of 1964.) The President of the United States has also declared in Executive Orders No. 10925 of March 6, 1961 (26 F.R. 1977), and No. 11114 of June 23, 1963 (28 F.R. 6485), that all qualified persons should be given equal employment opportunity without regard to race, color, creed, or national origin, when employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. Recipients of financial assistance under this part are subject to the nondiscrimination requirements of the laws and policies referred to in this section.

§ 108.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Small Business Administration.

(b) "SBA" means the Small Business Administration.

(c) "Small-business concern" means a business concern which would qualify as a small business under § 121.3–10 or § 121.3–11 of this chapter.

(d) "Development company" means an enterprise incorporated under the laws of one of the several States, formed for the purpose of furthering the economic development of its community and environs, and with authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations. Such corporation may be organized either as a profit or nonprofit enterprise.

(1) A State development company is a corporation organized under or pursuant to a special legislative act to operate on a statewide basis.

(2) A local development company is a corporation chartered under any applicable State corporation law to operate in a specified area within a State. A local development company shall be principally composed of and controlled by persons residing or doing business in the locality; such local persons shall ordinarily constitute not less than 75 percent of the voting control of the development company. No shareholder or member of the development company may own in excess of 25 percent of the voting control in the development company if he and his affiliated interest have direct pecuniary interest in the project involving the section 502 loan or in the small-business concern which is to be assisted. The primary objective of the development company must be of benefit to the community as measured by increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members; any monetary profits or other benefits which flow to the shareholders or members of the local development company must be merely incidental thereto.

(e) "Section 501 loan" means a loan authorized under section 501 of the Small Business Investment Act of 1958, as amended.

(f) "Section 502 loan" means a loan authorized under section 502 of the Small Business Investment Act of 1958, as amended.

(g) "Plant" means any physical facility, including land, buildings, machinery, and equipment owned or acquired by the development company or the small-business concern and employed or to be employed by the small-business concern in the conduct of its business, whether the business be of an industrial, commercial or recreational nature.

(h) "Construction contract" as used herein means any contract entered into by the development company or the small-business concern being assisted for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

§ 108.3 Procedures for loan applications.

(a) *Relocation.* No loan shall be made under this part that will result in a substantial increase of unemployment in any area of the country.

(1) In cases where the small-business concern to be assisted is relocating its operations, said concern must submit and certify to evidence, prior to the filing of of the application by the State or local development company for a section 502 loan or prior to disbursement by the State development company of the proceeds of a section 501 loan previously granted, that its relocation will not result in a substantial increase of unemployment in the area from which it is moving. Said evidence shall be submitted by the State or local development company to the SBA field office as designated in paragraph (c) of this section, and within 30 days SBA will notify the development company whether it may file a section 502 loan application or disburse section 501 loan proceeds.

(2) A substantial increase in unemployment shall be presumed to occur when (i) the relocation would result in the unemploymnet of one-third of the work force of the small-business concern to be assisted, (ii) the unemployment would result in making the area affected an area of substantial unemployment as designated by the Department of Labor, or (iii) the area affected is one of substantial unemployment as designated by the Department of Labor, or the area is a redevelopment area designated by the Secretary of Commerce pursuant to the Area Redevelopment Act (Pub. Law 87–27).

(b) *Form of application.* An application for a section 501 loan shall be made upon SBA Form 501 and for a section 502 loan upon SBA Form 502, and shall include all other pertinent information required in supporting schedules and forms. The application and supporting materials shall be submitted in duplicate if the request is for a direct loan from SBA. If the section 502 loan is to be made in participation with a bank or other lending institution, the application and supporting materials shall be submitted in triplicate. Detailed instructions on filling out application forms will be found on SBA Form 501, SBA Form 502 and SBA Form 502B.[1]

(c) *Place of filing.* Application shall be made in the SBA field office serving the area in which the applicant is located if no bank participation in the loan is available. If a bank participation is available, the application shall be submitted to such bank or other lending institution which will in turn execute the Application for Participation Agreement contained on page 3 of SBA Form 502 and transmit two copies of the application and supporting materials to the SBA field office serving the area in which the applicant or participating institution may be located.

(d) *Nondiscrimination.* Applicants for section 501 and section 502 loans and identifiable small-business concerns, beneficiaries of such loans, will be required to execute when appropriate Applicants Agreement of Compliance (SBA Form 601) and Assurance of Compliance (SBA Form 652 and SBA Form 652B).[1]

§ 108.4 Administrative authority.

The Administrator may, when in his discretion the best interests of the Government will be served, waive any regulations published under this part to the extent that such regulations are not prescribed by statute, and waiver thereof would not be contrary to the provisions of Title V of the Small Business Investment Act of 1958, as amended.

[1] Forms filed with the Federal Register Office. Copies of these SBA forms are available in all SBA field offices.

LOANS UNDER SECTION 501

§ 108.501 Statutory provision.

SEC. 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

§ 108.501–1 Section 501 loans.

(a) *Participation.* To insure participation of private financing sources, the State development company shall agree, unless otherwise notified by SBA, that within 30 days after disbursement of the loan and thereafter during the period in which the loan or any part thereof remains unpaid, it will maintain portfolio investments or loans, or both, meeting the requirements of paragraph (e) of this section, having a stated outstanding principal value equal to no less than 133⅓ percent of the unpaid principal of the loan. Deviation from this ratio will be permitted during intervals between repayment or other disposal of such investments or loans and the prompt reinvestment of funds resulting from such repayment or disposal.

(b) *Loan amount.* Subject to the limitation contained in section 501(b) of the Small Business Investment Act of 1958, as amended, a loan authorized under this authority shall be in such amount as determined by SBA to be consistent with sound business practice.

(c) *Repayment of loan.* A section 501 loan shall not be made for a term longer than 20 years. Payment of all or any part of a loan may be anticipated without penalty on any interest payment date. Except when the rate of repayment is waived by SBA, such rate shall be adjusted by SBA so that a section 501 loan shall be repaid at no lesser rate than the other debts of the development company which first become due: *Provided, however,* That at no time will the outstanding amount of a section 501 loan to a development company exceed the limitation set forth in section 501(b) of the Small Business Investment Act of 1958, as amended.

(d) *Security.* Except where this requirement is waived by SBA, funds advanced to a development company under a section 501 loan shall be secured on an equal basis with those funds borrowed by such company after August 21, 1958, regardless of source. Equal basis does not require that all SBA funds be secured in the highest degree that any other development company funds are secured; however, SBA funds shall be secured on a ratable basis.

(e) *Use of proceeds.* (1) The proceeds of loans to State development companies shall be used only to provide equity capital or make long-term loans, or both, to small-business concerns. For the purposes of this section, a long-term loan or any debt instrument through which equity may be acquired shall have a final maturity of not less than 5 years. State development companies may use section 501 loan proceeds to acquire capital stock or other equity instruments from, or to relend to, small-business concerns in need of assistance to finance their operations, growth, expansion or modernization: *Provided, however,* That the authority to acquire with such proceeds an equity or other proprietary interest in a borrower shall extend only to State development companies which are wholly owned and controlled by private interests.

(2) The proceeds of loans to State development companies may not be used for:

(i) Investments and loans involving enterprises which derive a substantial portion of their gross income from the sale of alcoholic beverages;

(ii) Relending or reinvesting by the small-business concern;

(iii) Purposes contrary to the public interest, including but not limited to gambling enterprises and activities;

(iv) Any purpose which would encourage monopoly or be inconsistent with accepted standards of free enterprise;

(v) Use outside of the United States: *Provided, however,* That a State development company may provide funds to a small-business concern which is subject to State or Federal jurisdiction, (*a*) for use in the domestic production of products for distribution abroad, or to acquire abroad materials for such operation, or (*b*) for use in its branch operations abroad or for transfer to its controlled foreign subsidiary in exchange for further equity interest in or the monetary obligation of such foreign subsidiary; so long as the major portion of the assets and activities of such concern, after funds are so employed, remains within the territorial jurisdiction of the United States.

(f) *Interest rate.* The rate of interest on section 501 loans to State development companies shall be the same rate at which the State development company borrows funds from its members, but in no case shall this rate be less than the prime rate of interest, nor greater than 6½ percent per annum.

(g) *Firm commitment.* A firm commitment may be given by SBA for a period of 1 year subject to the payment of a commitment fee computed on the basis of 1 percent per annum, beginning with the first day after the first 30 days following the date of the note.

(h) *Disposal of obligations.* SBA may, in its discretion and upon such terms and conditions and for such consideration as shall be deemed to be reasonable, sell, assign, transfer or otherwise dispose of the note, and all other evidence of debt or security held in connection with the payment of any loan made under section 501 of the Small Business Investment Act of 1958, as amended.

LOANS UNDER SECTION 502

§ 108.502 Statutory provision.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $350,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding 25 years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed 10 years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

§ 108.502–1 Section 502 loans.

SBA is authorized to make loans to development companies to finance plant construction, conversion or expansion, including the acquisition of land: *Provided, however,* That such loans will assist an identifiable small-business concern in accomplishing a sound business purpose.

(a) *Sound business purpose.* A loan will not be considered to be for a sound business purpose (1) if, in any case where the relocation of a small-business concern is involved, the relocation will result in the avoidance by such concern of obligations incurred in the location from which the move is to be made or if the primary incentive for such relocation is a local subsidy; (2) if the concern is being relocated from another area unless there is demonstrated to SBA a need to locate closer to the source of basic materials or to major consumers, or to consolidate operations in one location, or unless such relocation is justified by other reasons satisfactory to SBA; (3) if it

is to accomplish an expansion or conversion which is unwarranted in the light of the small-business concern's past experience and management ability; (4) if it will subsidize inferior management; (5) if it provides funds for speculation; or (6) if its effect will be to encourage monopolies or be inconsistent with accepted standards of the American system of free competitive enterprise.

(b) *Ineligible categories.* A loan will not be made if (1) it provides assistance for an eleemosynary institution; (2) it is to finance the construction, acquisition, conversion, or operation of recreational or amusement facilities, unless such facilities contribute to the health or general well-being of the public; (3) it will provide assistance to a newspaper, magazine, radio, or television broadcasting company, or similar enterprise; (4) it provides assistance for a small-business concern, any part of whose gross income or that of any of its principal owners is derived from gambling activities; (5) a substantial portion of the small-business concern's gross income is derived from the sale of alcoholic beverages; or (6) it provides assistance for a small-business concern primarily engaged in lending or investment.

(c) *Collateral.* All loans made under this section shall be so secured as reasonably to assure repayment. SBA shall determine that all property and rights available as collateral security for such a loan are of a character and value as reasonably to assure repayment of the loan. Collateral shall be insured against such hazards and risks as SBA may require.

(d) *Loan amount.* (1) Loans made by SBA under this section shall be limited to $350,000 for each identifiable small-business concern. The total unpaid amount of any such SBA loan or loans in aid of a particular small-business concern shall never exceed $350,000.

(2) Development companies may be eligible to be considered for such additional loans of not more than $350,000 each, as there may be additional identifiable small-business concerns to be assisted.

(e) *Participation by the development company.* A development company may be required to furnish a reasonable part, as determined by SBA, of the funds necessary to accomplish the plant construction, conversion, or expansion, or the acquisition of land. For the purposes of this paragraph, the furnishing of not less than 20 percent of the necessary funds shall generally be considered a reasonable part. Exceptions may be made: (1) In communities with a population of 5,500 or less, where the area of operations of the development company encompasses only that community, a minimum of 10 percent of the necessary funds may be considered a reasonable part; (2) In communities with a population of 5,501 to 10,000, where the area of operations of the development company encompasses only that community, a minimum of 15 percent of the necessary funds may be considered a reasonable part; (3) If the small-business concern to be assisted is located or to be established in a so-called "Ghetto Area" or in a "Target Area" or in a "High Unemployment Area", as determined by the Administrator, then the minimum 10 percent of the necessary funds may be considered a reasonable part, regardless of the size of the community and of the area of operations of the development company; and (4) If SBA has made one or more loans under this section to a particular development company whose area of operations encompasses a community having a population of more than 10,000, and the small-business concern to be assisted is located or to be established in a lesser size community, then the minimum percentages set forth in subparagraphs (1) and (2) of this paragraph of the necessary funds may be considered a reasonable part. SBA may require that the funds to be furnished by the development company be derived from paid-in capital or surplus of the development company, as well as from other sources. The amount of paid-in capital to be required will depend in part upon the amount of the loan, the maturity of the loan, the extent to which other borrowings of the development company may be subordinated to the SBA loan and such other factors as the SBA may consider appropriate to the individual case. For the purpose of this section, "paid-in capital" is cash and property actually received in exchange for shares of stock issued by the development company, or cash and property contributed to the development company without obligation therefor, or cash and property for which the development company is indebted on a subordinated basis subject to the limitations set forth in § 121.3(d) of this chapter.

(f) *Other financing.* (1) A loan will not be made unless the development company and the small-business concern shall show to the satisfaction of SBA that the desired financial assistance is not available on reasonable terms.

(2) In the case of a development company, it shall be satisfactorily demonstrated that the desired financing is not available by means of sale of stock or debt securities, or both, in the development company; from funds agreed to be furnished by participating members of the development company; and by means of loans from not less than two lending institutions (where the population of the community exceeds 200,000) which have a sufficient legal and normal lending limit to cover the loan applied for. If such development company be a public corporation, it shall show that such financial assistance is not reasonably available from an appropriation of public funds, nor by the public issuance of its bonds or other means.

(3) In the case of a small-business concern, the demonstration of the unavailability of the desired financial assistance on reasonable terms shall be in accordance with § 120.1(a) of this chapter. SBA will rely on the development company's certification as to the unavailability of such other financial assistance to the small-business concern.

(g) *Participation by other financial institutions in loans to development companies.* In order to stimulate and encourage loans by banks and other lending institutions, the SBA shall require that:

(1) An applicant for a loan show that a participation by another lending institution is not available. No financial assistance shall be extended in participation with another lending institution on an immediate basis unless the applicant shall show that a participation on a deferred basis is not available.

(2) In all agreements to participate in loans on a deferred or immediate basis, the participation by SBA shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(3) Participation charges and service fees shall be in accordance with § 120.2(b) (1) and (3), respectively, of this chapter.

(h) *Interest rate.* The interest rate on a direct section 502 loan to a development company and on SBA's share of a section 502 loan made in participation with another lending institution shall be 5½ percent per annum: *Provided, however,* That where the interest on the share of the loan of the bank or other lending institution in a guaranteed or immediate participation loan is less than 5½ percent per annum, then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. For the purposes of this paragraph, bank's share of a guaranteed participation shall be the entire amount of the loan until such time as SBA shall actually purchase its participation.

(i) *Loan maturity.* The maturity of any loan under this section may not exceed 25 years plus such additional period as is estimated may be required to complete construction, conversion or expansion. It shall be the policy of SBA generally, in the case of a lease agreement between a local development company and an identifiable small-business concern, to require that the term of the lease shall not be less than the term of the loan. It shall also be the policy of SBA generally to require repayment in equal periodic installments. Extensions or renewals of the loan for an additional period not to exceed 10 years beyond the stated maturity may be granted by SBA only if such extensions or renewals will aid in the orderly liquidation of such loans.

(j) *Use of proceeds.* (1) As of the time of approval and the time of disbursement of a section 502 loan, the development company shall submit evidence satisfactory to SBA that the proceeds of such loan will be used for plant construction, conversion, expansion or the acquisition of land, solely to assist an identifiable small-business concern: *Provided, however,* That as of the time of disbursement, with respect to size, evidence need be submitted to show only the fact that the small-business concern to be assisted has not adversely affected its status as an identifiable small-business concern since the date of approval of loan by reason of any reor-

ganization (including any reorganization under any Federal or State statute, sale of assets, merger, consolidation, purchase, sale or exchange of securities, or long-term lease) or franchise agreement.

(2) The identifiable small-business concern, under agreement existing at the time of such disbursement, shall be entitled or permitted to possess and use, as owner or tenant, the plant which is constructed, converted or expanded, with the proceeds of said loan.

(3) Evidence, satisfactory to SBA, shall be submitted prior to approval and disbursement of said loan, that the identifiable small-business concern intends or has the right to use the said plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; and that use of said proceeds will assist only the identifiable small-business concern. Evidence of such intent and purpose shall be deemed to exist where the proceeds of the section 502 loan will be used by the development company to (i) relend to the identifiable small-business concern for construction, conversion, or expansion of a plant owned, occupied and used by said concern; (ii) construct, convert, or expand a plant to be sold immediately to the identifiable small-business concern for its occupancy and use; (iii) construct, convert or expand a plant owned by the development company to be leased to the identifiable small-business concern with the right in such concern to apply rentals, under a purchase option arrangement, on the purchase price of the plant; or (iv) construct, convert, or expand a plant owned by the development company to be leased to the identifiable small-business concern without a purchase option arrangement, but with the right in such concern to occupy the plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; upon term between the development company and said concern intended to provide the development company with total funds not in excess of those necessary; to repay with interest the section 502 loan; for applicable taxes upon and maintenance of the plant; to recover administrative costs; to provide a reasonable sum as a reserve for contingencies to cover unusual costs or expenses; and to recover capital investments and expenditures of the development company's own funds in the project with a reasonable return on such capital investments and expenditures as may be necessary to attract and maintain a broad base of ownership or membership and interest in continuing local development projects.

(k) *Compliance.* (1) All complaints alleging discrimination in construction contracts involving the use of section 502 loan proceeds shall be investigated by SBA. Complaints alleging discrimination must be filed with SBA within 90 days of the alleged discrimination.

(2) SBA may hold informal hearings and make findings regarding the allegation of discrimination in accordance with the rules of the President's Committee on Equal Employment Opportunity. In the event that SBA finds discrimination to have occurred, it may cancel loans approved but not disbursed to an applicant, it may refuse to make further disbursement on account of the loan or it may accelerate the maturity of the note between borrower and SBA, or it may take any action of a lesser nature. Failure of SBA to invoke or assert any of the aforesaid sanctions or any other sanctions shall not be construed to be a waiver of SBA's right to assert any of such sanctions. See also Part 112 of this chapter.

Effective date. This revision shall become effective upon its publication in the FEDERAL REGISTER.

Dated: October 23, 1967.

ROBERT C. MOOT,
Administrator.

[F.R. Doc. 67-12919; Filed, Nov. 1, 1967; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 67-EA-121, Amdt. No. 39-503]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 67-12-3. Amendment 39-390 (AD 67-12-3) requires repetitive inspections of the rudder skin, stiffeners and rear spar flanges of the F-27 and FH-227 type aircraft. After issuing this amendment service experience has indicated that the incorporation of Fairchild Hiller Service Bulletins No. 27-4 and 27-42 pursuant to the amendment, have not completely eliminated cracks in the affected parts of the airframe. Therefore AD 67-12-3 is being revised and superseded by a new airworthiness directive which will require inspections of aircraft modified in accordance with the aforementioned service bulletins and establishes new alterations for incorporation into the aircraft. The same safety factors applicable to AD 67-12-3 are presently applicable.

Since a situation exists that requires immediate adoption of this amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

FAIRCHILD HILLER: Applies to Type FH-227 airplanes, and Type F-27A, F-27F, F-27G and F-27J airplanes.

Compliance required as indicated.

To detect cracks in the rudder skin, stiffeners, and rear spar flange located between the ribs of the lower section of the rudder, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, unless already accomplished within the last 150 hours' time in service, and thereafter at intervals not to exceed 200 hours' time in service from the last inspection, comply with (b).

(b) Visually inspect for cracks the left and right rudder skins from Stations 10 to 71 between the middle and rear spars. By manual compression of the left and right rudder skins, inspect for indications of cracks in the rudder stiffeners at Stations 16, 28, 40, 52 and 64 between the middle and rear spars, and in the rear spar flanges at these stations, or use an FAA-approved equivalent inspection. If a skin crack or indications of a crack in the stiffeners or rear spar flanges are found, comply with (d).

(c) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished within the last 300 hours' time in service, and thereafter at intervals not to exceed 400 hours' time in service from the last inspection, comply with (b) on FH-227 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-4 (FH-227) dated December 27, 1966 or later FAA-approved revision, and on F-27 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-42 (F-27) dated December 27, 1966 or later FAA-approved revision, or an FAA-approved equivalent modification. If a skin crack or indications of a crack in the stiffeners or rear spar flanges are found, comply with (d).

(d) Repair cracked parts in accordance with Part 43 of the Federal Aviation Regulations or replace them with an unused part of the same part number or an FAA-approved equivalent before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

(e) The repetitive inspection specified in (c) may be discontinued on FH-227 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-11 (FH-227) Revision No. 1, dated September 7, 1967 or later FAA-approved revision, and on F-27 airplanes modified in accordance with Fairchild Hiller Service Bulletin No. 27-54 (F-27) Revision No. 1, dated September 7, 1967 or later FAA-approved revision, or an FAA-approved equivalent modification.

(f) Equivalent inspections may be approved by an FAA maintenance inspector. Equivalent parts, Service Bulletin revisions, and modifications, must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(g) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This supersedes Amendment 39-390 (Part 39 F.R. Apr. 8, 1967), AD 67-12-3.

This amendment is effective November 1, 1967.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423)

Issued in Jamaica, N.Y., on October 25, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12941; Filed, Nov. 1, 1967; 8:47 a.m.]

[Docket No. 67-EA-107, Amdt. 39-502]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to require inspection of the tail rotor drive shafting on the Sikorsky S-51 type helicopter.

There have been reports of loose rivets in the sleeve and tube assembly, P/N S535180 of the tail rotor drive shafting. Since this condition is likely to exist or develop in other helicopters of the same type an airworthiness directive is being issued to require inspection, and repair or replacement when applicable, of the assembly.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

SIKORSKY AIRCRAFT. Applies to all S-51 type helicopters.

Compliance required as indicated unless already accomplished. To preclude the possibility of loss of tail rotor power due to failure of sleeve and tube assembly P/N S535180, accomplish the following:

(a) Immediately upon the effective date of this AD and every 50 aircraft hours' time in service thereafter, perform the following torsional check on sleeve and tube assembly P/N S535180 as follows:

1. Apply rotor brake.
2. Induce a torsional force in both clockwise and counterclockwise directions to tail rotor drive shafting by hand applied light rotational pressure on tail rotor blades.
3. Inspect shaft ends for evidence of movement between end fittings, rivets, and tube.
4. If evidence of movement is observed, replace sleeve and tube assembly P/N S535180 with like new or serviceable part.

(b) Following the effective date of this AD daily inspect sleeve and tube assembly P/N S535180 for loose rivets as evidenced by the presence of black fretting residue around rivet heads, or actual movement of the rivets, and the presence of cracks in the areas where the tube and sleeves (adapters) are joined. If cracks are found replace sleeve and tube assembly P/N S535180 with like new or serviceable part. Loose rivets may be replaced by removing the existing rivets, drilling No. 2 (.221) diameter and installing new rivets P/N MS20470-B7-9. Alternate oversize rivets P/N MS20470-B8-10 may be used if holes are drilled to No. F. (.257) diameter.

(c) Upon request, with substantiating data submitted through an FAA maintenance inspector, compliance times may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Sikorsky Aircraft telegram to all operators dated Sept. 5, 1967 covers this same subject.)

This amendment is effective October 31, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on October 24, 1967.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 67-12942; Filed, Nov. 1, 1967; 8:47 a.m.]

[Airspace Docket No. 67-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On September 13, 1967, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (32 F.R. 13008), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Washington, N.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the Notice, the geographic coordinate (lat. 35°34'15" N., long. 77°03'00" W.) for the Washington Municipal Airport was obtained from Coast and Geodetic Survey. Additionally, the longitudinal ordinate for WITN Commercial Broadcast Station was defined by Coast and Geodetic Survey as "long. 77°04'31" W." Accordingly, action is taken herein to add the geographic coordinate for the airport and correct the discrepancy in the longitudinal ordinate of the commercial broadcast station.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., January 4, 1968, as hereinafter set forth.

In § 71.181 (32 F.R. 2148), the following transition area is added:

WASHINGTON, N.C.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Washington Municipal Airport (lat. 35°34'15" N., long. 77°03'00" W.); within 2 miles each side of the 198° bearing from WITN Commercial Broadcast Station (lat. 35°31'34" N., long. 77°04'31" W.), extending from the 8-mile radius area to 8 miles southwest of WITN Commercial Broadcast Station.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on October 23, 1967.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 67-12922; Filed, Nov. 1, 1967; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 70—CUTOFF DATE FOR RECOGNIZING BOUNDARY CHANGES FOR THE 1970 CENSUSES

Final Date for Inclusion of Statistics

The FEDERAL REGISTER of September 14, 1967, page 13077, contained a notice and text of a proposed Part 70 of Chapter I, Title 15, Code of Federal Regulations. The purpose of this Part is to encourage municipalities and other units of government to complete their desired boundary changes sufficiently in advance of the 1970 Censuses of Population and Housing to allow time for the Bureau of the Census to incorporate the changes into training materials, maps, computer tapes, and for other purposes. Previous censuses show that the frequency of boundary changes increases just before the census date. This results in an insufficient time to incorporate the changes into the required materials before conducting the census. In addition to creating a workload that is impossible to complete before the census date, untimely boundary changes add to the cost of the census while omission of a change in the census documents causes discrepancies which cannot be resolved before commencing the enumeration.

Interested persons were given 30 days within which to submit written recommendations or suggestions. No recommendations or suggestions have been received and the proposed Part 70 is hereby adopted without change.

Title 15, Chapter I, Code of Federal Regulations is amended by adding a new Part 70 to read as follows:

Sec.
70.1 Cutoff date and the effect on enumeration.
70.2 County subdivision defined for census purposes.
70.3 Effect on boundary changes after the cutoff date.

AUTHORITY: The provisions of this Part 70 issued under title 13, U.S.C. 4 and 5, and the delegation to the Director, Bureau of the Census by Department of Commerce Order No. 85.

§ 70.1 Cutoff date and the effect on enumeration.

The Bureau of the Census will recognize only those boundaries legally in effect on January 1, 1970, for the tabulation and publication of data from the 1970 Censuses of Population and Housing. Respondents will be enumerated on the census date as residing within the legal limits of municipalities, wards, the county subdivision areas, and counties as these limits existed on January 1 of the census year.

§ 70.2 County subdivision defined for census purposes.

For purposes of this part, county subdivisions are defined to include the areas identified by the Bureau of the Census as minor civil divisions. Although civil and judicial townships are the most frequent type of minor civil division, there are also beats, election districts, magisterial districts, towns, and other areas. A more complete description appears on page XXI of "1960 Census of Population, Volume I, Part A."

§ 70.3 Effect of boundary changes after the cutoff date.

Changes in boundaries that become effective after January 1, 1970, will not be recognized by the Bureau of the Census in taking the 1970 Federal censuses. The residents of any area which is transferred to another jurisdiction after January 1, 1970 will be enumerated in the census as residents of the area in which their respective residences were located on January 1.

Dated: October 24, 1967.

A. ROSS ECKLER,
Director,
Bureau of the Census.

[F.R. Doc. 67-12971; Filed, Nov. 1, 1967; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 67-252]

PART 14—APPRAISEMENT

Cast Iron Soil Pipe From Poland

OCTOBER 24, 1967.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to such authority the Secretary of the Treasury has determined that cast iron soil pipe from Poland is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on September 5, 1967, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of cast iron soil pipe from Poland sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to cast iron soil pipe from Poland.

Section 14.13(b) of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Cast iron soil pipe	Poland	67-222

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 67-12961; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3B1065) filed by General Aniline & Film Corp., 140 West 51st Street, New York, N.Y. 10020, and other relevant material, has concluded that § 121.2520 of the food additive regulations should be amended by revising the nomenclature and description of the item "Polyoxyethylene (6-7 mols) nonylphenoxy phosphate" to identify these substances in terms consistent with current nomenclature and to provide for increased poly (oxyethylene) content of these substances that may be used in the formulation of food-packaging adhesives. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2520(c)(5) is amended by revising the item "Polyoxyethylene (6-7 mols) nonylphenoxy phosphate" to read as follows and by realphabetizing it accordingly:

§ 121.2520 Adhesives.

* * * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES	
Substances	*Limitations*
* * *	* * *
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 6-9 moles or 50 moles.	----------
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER filed with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 26, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12964; Filed, Nov. 1, 1967; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYURETHANE RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2180) filed by Spencer Kellogg, Division of Textron, Inc., Research Center, Post Office Box 210, Buffalo, N.Y. 14225, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of two additional substances, identified below, as reactants in the preparation of polyurethane resins for use in contact with dry, bulk food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2522(a)(2) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2522 Polyurethane resins.

* * * * * *

(a) * * *

(2) List of substances:

* * * * * *

1,3-Butylene glycol.

* * * * * *

Pentaerythritol-linseed oil alcoholysis product.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: October 26, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12965; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 81—PRACTICE AND PROCEDURE FOR HEARINGS UNDER PART 80 OF THIS TITLE

The following revision of Part 81 of subtitle A, Title 45 of the Code of Federal Regulations is for the purpose of adapting it to amendements recently made in Part 80 of Subtitle A. Title 45 and of making additional, nonsubstantial technical changes. The recent amendments to Part 80 transferred administrative authority under Title VI of the Civil Rights Act of 1964 from the heads of the various operating agencies to the Secretary, made specific provision for posttermination proceedings relating to the removal of a sanction imposed against an applicant or recipient under Title VI, and made other minor changes.

Part 81 of Subtitle A, Title 45 of the Code of Federal Regulations is hereby revised to read as follows:

Subpart A—General Information

Sec.
81.1 Scope of rules.
81.2 Records to be public.
81.3 Use of gender and number.
81.4 Suspension of rules.

Subpart B—Appearance and Practice

81.11 Appearance.
81.12 Authority for representation.
81.13 Exclusion from hearing for misconduct.

Subpart C—Parties

Sec.
81.21 Parties; General Counsel deemed a party.
81.22 Amici curiae.
81.23 Complainants not parties.

Subpart D—Form, Execution, Service and Filing of Documents

81.31 Form of documents to be filed.
81.32 Signature of documents.
81.33 Filing and service.
81.34 Service—how made.
81.35 Date of service.
81.36 Certificate of service.

Subpart E—Time

81.41 Computation.
81.42 Extension of time or postponement.
81.43 Reduction of time to file documents.

Subpart F—Proceedings Prior to Hearing

81.51 Notice of hearing or opportunity for hearing.
81.52 Answer to notice.
81.53 Amendment of notice or answer.
81.54 Request for hearing.
81.55 Consolidation.
81.56 Motions.
81.57 Responses to motions and petitions.
81.58 Disposition of motions and petitions.

Subpart G—Responsibilities and Duties of Presiding Officer

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81.131 Definitions.

AUTHORITY: The provisions of this Part 81 are issued under 5 U.S.C. 301 and 45 CFR 80.9(d).

Subpart A—General Information

§ 81.1 Scope of rules.

The rules of procedure in this part supplement §§ 80.9 and 80.10 of this subtitle and govern the practice for hearings, decisions, and administrative review conducted by the Department of Health, Education, and Welfare, pursuant to Title VI of the Civil Rights Act of 1964 (sec. 602, 78 Stat. 252) and Part 80 of this subtitle.

§ 81.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the Civil Rights hearing clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

§ 81.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 81.4 Suspension of rules.

Upon notice to all parties, the reviewing authority or the presiding officer, with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

Subpart B—Appearance and Practice

§ 81.11 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 81.12 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 81.13 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

Subpart C—Parties

§ 81.21 Parties; General Counsel deemed a party.

(a) The term party shall include an applicant or recipient or other person to whom a notice of hearing or opportunity for hearing has been mailed naming him as respondent.

(b) The General Counsel of the Department of Health, Education, and Welfare shall be deemed a party to all proceedings.

§ 81.22 Amici curiae.

(a) Any interested person or organization may file a petition to participate in a proceeding as an amicus curiae. Such petition shall be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome, and may contribute materially to the proper disposition thereof, An amicus curiae is not a party and may not introduce evidence at a hearing.

(b) An amicus curiae may submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. The amicus curiae may submit a brief on each occasion a decision is to be made or a prior decision is subject to review. His brief shall be filed and served on each party within the time limits applicable to the party whose position he deems himself to support; or if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings.

(c) When all parties have completed their initial examination of a witness, any amicus curiae may request the presiding officer to propound specific questions to the witness. The presiding officer, in his discretion, may grant any such request if he believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

§ 81.23 Complainants not parties.

A person submitting a complaint pursuant to § 80.7(b) of this title is not a party to the proceedings governed by this part, but may petition, after proceedings are initiated, to become an amicus curiae.

Subpart D—Form, Execution, Service and Filing of Documents

§ 81.31 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 81.32 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 81.33 Filing and service.

All notices by a Department official, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to a Department official from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed. For requirements of service on amici curiae, see § 81.107.

§ 81.34 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.

§ 81.35 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

§ 81.36 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart E—Time

§ 81.41 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 81.42 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly.

§ 81.43 Reduction of time to file documents.

For good cause, the reviewing authority or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this part, except as provided by law or in Part 80 of this title.

Subpart F—Proceedings Prior to Hearing

§ 81.51 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to § 80.9 of this title.

§ 81.52 Answer to notice.

The respondent, applicant or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

§ 81.53 Amendment of notice or answer.

The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be

amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 81.54 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

§ 81.55 Consolidation.

The responsible Department official may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 81.56 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 81.57 Responses to motions and petitions.

Within 8 days after a written motion or petition is served, or such other period as the reviewing authority or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 81.58 Disposition of motions and petitions.

The reviewing authority or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the reviewing authority or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral arguments shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

Subpart G—Responsibilities and Duties of Presiding Officer

§ 81.61 Who presides.

A hearing examiner assigned under 5 U.S.C. 3105 or 3344 (formerly sec. 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

§ 81.62 Designation of hearing examiner.

The designation of the hearing examiner as presiding officer shall be in writing, and shall specify whether the examiner is to make an initial decision or to certify the entire record including his recommended findings and proposed decision to the reviewing authority, and may also fix the time and place of hearing. A copy of such order shall be served on all parties. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

§ 81.63 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue initial or recommended decisions.

(k) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

Subpart H—Hearing Procedures

§ 81.71 Statement of position and trial briefs.

The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing. The presiding officer may also requre the parties to submit trial briefs.

§ 81.72 Evidentiary purpose.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Part 80 of this title. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the reviewing authority or presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 81.101. Thereafter the proceedings shall go to conclusion in accordance with Subpart J of this part. The presiding officer may allow an appeal from such order in accordance with § 81.86.

§ 81.73 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 81.75 and 81.76, witnesses shall be available at the hearing for cross-examination.

§ 81.74 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 81.75 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less than 7 days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions

therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 81.76 Depositions.

Upon such terms as may be just, for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

§ 81.77 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer or the reviewing authority if no presiding officer has yet been designated may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 81.78 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 81.79 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 81.80 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 81.81 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 81.82 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 81.83 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 81.84 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 81.85 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 81.86 Appeals from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the reviewing authority prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the reviewing authority within such period as the presiding officer directs. No oral argument will be heard unless the reviewing authority directs otherwise. At any time prior to submission of the proceeding to it for decision, the reviewing authority may direct the presiding officer to certify any question or the entire record to it for decision. Where the entire record is so certified, the presiding officer shall recommend a decision.

Subpart I—The Record

§ 81.91 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 81.92 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart J—Posthearing Procedures, Decisions

§ 81.101 Posthearing briefs: proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 81.102 Decisions following hearing.

When the time for submission of posthearing briefs has expired, the presiding officer shall certify the entire record, including his recommended findings and proposed decision, to the responsible Department official; or if so authorized he shall make an initial decision. A copy of the recommended findings and proposed decision, or of the initial decision, shall be served upon all parties, and amici, if any.

§ 81.103 Exceptions to initial or recommended decisions.

Within 20 days after the mailing of an initial or recommended decision, any party may file exceptions to the decision, stating reasons therefor, with the reviewing authority. Any other party may file a response thereto within 30 days after the mailing of the decision. Upon the filing of such exceptions, the reviewing authority shall review the decision and issue its own decision thereon.

§ 81.104 Final decisions.

(a) Where the hearing is conducted by a hearing examiner who makes an initial decision, if no exceptions thereto

are filed within the 20-day period specified in § 81.103, such decision shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of § 81.106.

(b) Where the hearing is conducted by a hearing examiner who makes a recommended decision, or upon the filing of exceptions to a hearing examiner's initial decision, the reviewing authority shall review the recommended or initial decision and shall issue its own decision thereon, which shall become the final decision of the Department, and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 (formerly section 10(c) of the Administrative Procedure Act), subject to the provisions of § 81.106.

(c) All final decisions shall be promptly served on all parties, and amici, if any.

§ 81.105 Oral argument to the reviewing authority.

(a) If any party desires to argue a case orally on exceptions or replies to exceptions to an initial or recommended decision, he shall make such request in writing. The reviewing authority may grant or deny such requests in its discretion. If granted, it will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument. The names of persons who will argue should be filed with the Department hearing clerk not later than 7 days before the date set for oral argument.

(b) The purpose of oral argument is to emphasize and clarify the written argument in the briefs. Reading at length from the brief or other texts is not favored. Participants should confine their arguments to points of controlling importance and to points upon which exceptions have been filed. Consolidations of appearances at oral argument by parties taking the same side will permit the parties' interests to be presented more effectively in the time allotted.

(c) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Department hearing clerk at least 7 days before the argument.

§ 81.106 Review by the Secretary.

Within 20 days after an initial decision becomes a final decision pursuant to § 81.104(a) or within 20 days of the mailing of a final decision referred to in § 81.104(b), as the case may be, a party may request the Secretary to review the final decision. The Secretary may grant or deny such request, in whole or in part, or serve notice of his intent to review the decision in whole or in part upon his own motion. If the Secretary grants the requested review, or if he serves notice of intent to review upon his own motion, each party to the decision shall have 20 days following notice of the Secretary's proposed action within which to file exceptions to the decision and supporting briefs and memoranda, or briefs and memoranda in support of the decision. Failure of a party to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

§ 81.107 Service on amici curiae.

All briefs, exceptions, memoranda, requests, and decisions referred to in this subpart J shall be served upon amici curiae at the same times and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 81.71 shall be served on amici.

Subpart K—Judicial Standards of Practice

§ 81.111 Conduct.

Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from improprieties in connection with a proceeding.

§ 81.112 Improper conduct.

With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the reviewing authority by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper for any person to solicit communications to any such officer, or his decisional staff, other than proper communications by parties or amici curiae.

§ 81.113 Ex parte communications.

Only persons employed by or assigned to work with the reviewing authority who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the reviewing authority, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The reviewing authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

§ 81.114 Expeditious treatment.

Requests for expeditious treatment of matters pending before the responsible Department official or the presiding officer are deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

§ 81.115 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights hearing clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 81.113. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the responsible Department official or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of Part 80 of this title are not prohibited.

§ 81.116 Filing of ex parte communications.

A prohibited communication in writing received by the Secretary, the reviewing authority, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

Subpart L—Posttermination Proceedings

§ 81.121 Posttermination proceedings.

(a) An applicant or recipient adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the responsible Department official for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall be in writing and shall affirmatively show that since entry of the order, it has brought its program or activity into compliance with the requirements of the Act, and with the Regulation thereunder, and shall set forth specifically, and in detail, the steps which it has taken to achieve such compliance. If the responsible Department official denies such request the applicant or recipient shall be given an expeditious hearing if it so requests in writing and specifies why it believes the responsible

Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to subparagraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

Subpart M—Definitions

§ 81.131 Definitions.

The definitions contained in § 80.13 of this subtitle apply to this part, unless the context otherwise requires, and the term "reviewing authority" as used herein includes the Secretary of Health, Education, and Welfare, with respect to action by that official under § 81.106.

Transition provisions: (a) The amendments herein shall become effective upon publication in the FEDERAL REGISTER.

(b) These rules shall apply to any proceeding or part thereof to which Part 80 of this title as amended effective October 19, 1967 (published in the FEDERAL REGISTER for Oct. 19, 1967), and as the same may be hereafter amended, applies. In the case of any proceeding or part thereof governed by the provisions of Part 80 as that part existed prior to such amendment, the rules in this Part 81 shall apply as if these amendments were not in effect.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-12967; Filed, Nov. 1, 1967; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 17145; FCC 67-1131]

PART 73—RADIO BROADCAST SERVICES

Station Identification Requirements

Report and order. 1. On Jauary 25, 1967, the Commission adopted a notice of proposed rule making (FCC 67-114) [1] to prohibit broadcast licensees in station identification announcements, promotional announcements or any other broadcast matter from leading or attempting to lead members of the listening or viewing public to believe that their stations have been assigned to cities other than those specified in their licenses.

2. Efforts of certain licensees to mislead the public as to the licensed location of their stations have long been a matter of concern to the Commission. Gulf Television Co., 12 R.R. 447; Tulsa Broadcasting Co., 12 R.R. 1256. More recently, 8 R.R. 2d 1187, we found such practices by a licensee undesirable but under the particular circumstances of that case not in violation of existing rules because the call letters and city in which the station was licensed were announced at the time specified for station identification. In the light of information coming to our attention regarding misleading announcements as to station location by this and other stations, we thought it necessary to amend the rules. We further believed that nothing short of a general prohibition of the broadcast of misleading matter on this subject would cover all situations and prevent the defeat of the intent and purpose of our station identification rules. Accordingly, we adopted a notice of a proposal to amend Part 73 of the rules to provide that:

> A licensee shall not in station identification announcements, promotional announcements, or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.[2]

3. More than one-half of the parties submitting comments support the proposed rule or its purpose, and one (Old Pueblo Broadcasting Co.) urges the Commission to go further and specify that even in nonbroadcast forms of advertising and promotion stations may not identify themselves with communities other than those in which they are licensed.[3] However, most of the parties favoring the rule ask clarification (a) to specify that stations licensed to more than one city or authorized to use multiple-city identification may in all program matter identify themselves accordingly, and (b) to specify that stations licensed to one city but providing substantial service to other cities or nearby areas may so describe the scope of their coverage, provided no attempt is made to mislead the audience as to their licensed location. One of the parties in this group asks the Commission to state that licensees shall be entitled to declaratory rulings under § 1.2 of the rules. Several suggest that the Commission issue a public notice containing illustrations of specific ways in which it intends to apply the rule. It was not our intent in proposing this rule making to infringe on any authorization for multiple-city identification or to inhibit the broadcast of truthful statements about a station's coverage area. These and other suggestions and requests of parties submitting comments will be dealt with more fully hereinafter.

4. Slightly less than one-half of the comments oppose the rule. Many of these comments are based on misconceptions of its effect in the areas described above; i.e., the use, where authorized, of multiple-city identification and the right to broadcast accurate statements regarding a station's coverage area. However, several submitting opposition comments profess fear that the rule would impose many other prohibitions upon the programming of stations whose licensed locations are suburban communities. Among the consequences conjured up by this group are prohibitions against (a) the broadcast of any public service announcements or programs on behalf of organizations located in the principal city; (b) the broadcast of programs designed to serve the needs and interests of the entire coverage area of the station; (c) the broadcast of advertising sponsored by businesses located in the principal city. A few of those submitting comments even profess fear that a suburban station would be required to delete or severely restrict the amount of news broadcast about events occurring in the adjacent principal city, lest the Commission hold that the broadcast of such news would mislead the station's listeners as to its location.

5. All such fears in the terms stated above are groundless. We have repeatedly stated that a station has an obligation to serve its entire coverage area, and the broadcast of public service announcements and other programing, including news, which pertains to or is of interest to persons in its entire coverage area is not inhibited by the proposed rule. However, as set forth in § 73.30(a) of our rules, the primary responsibility of a licensee is to "serve a particular city, town, political subdivision or community which [is] specified in its station license." The further obligation to serve its entire service area may not be used as justification to ignore the licensee's primary responsibility or to mislead a station's audience as to its licensed location.[4]

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[1] The Notice was published in the FEDERAL REGISTER of Feb. 3, 1967 (32 F.R. 2384). Requests were received for extension of time for filing comments and reply comments, and these deadlines eventually were extended to Apr. 28 and May 17, 1967, respectively (32 F.R. 6408).

[2] The amendment to the rules relating to television stations substitutes the word "audience" for "listeners."

[3] Comments were timely filed by 30 parties, some of which were multiple owners of broadcast stations, and one of which was the National Association of Educational Broadcasters. The other 29 were Scharfeld, Bechhoefer & Baron, Matta Broadcasting Co., Truth Publishing Co., WFGM, Inc., The American University, Broadcaster Services, Inc., New Hampshire-Vermont Broadcasting Corp., Old Pueblo Broadcasting Co., KPOJ, Inc., WPVL, Inc., Independent Music Broadcasters, Inc., King Broadcasting Co., Metromedia, Inc., Storer Broadcasting Co., Spartan Radiocasting Co., the Law Offices of Marcus Cohn, Charles River Broadcasting Co., Bell Broadcasting Co., Northwest Publications, Inc., Triangle Broadcasting Co., Inc., Appalachian Broadcasting Corp., Midwest Radio-Television, Inc., Fly, Shuebruk, Blume and Gaguine (on behalf of seven licensees), Capital Cities Broadcasting Corp., Newport Broadcasting Co., Nassau Broadcasting Co., Knorr Broadcasting Corp., the Chamber of Commerce of Pine Bluff, Ark., and Sparks Broadcasting Co.

[4] The opposition comments in this proceeding repeatedly cite Petersburg Television Corporation, 10 R.R. 567, but we said nothing in that decision to justify lack of service to one's assigned community. In commenting favorably on the proposal of one applicant to serve its entire coverage area, we stated that the "proposed station, while serving the entire area, is a Petersburg station," and that "This is not a case where one party, in attempting to serve his entire coverage area, has made inadequate provision for some important segment such as the community to which the station is assigned."

6. In his statement concurring with the notice of proposed rule making in this proceeding, Commissioner Johnson raised numerous questions going to our basic allocation policies, and invited comments thereon. In response, some filing comments urge that we abandon the principle of licensing stations to individual communities and permit them to identify themselves with entire metropolitan areas. In support of this view, it is urged that the concept of community service is anachronistic; that stations in metropolitan regions now actually serve homogeneous areas rather than political entities, and that the people in such metropolitan areas have the same interests. Although such arguments merit consideration, we do not propose in this proceeding to consider the revision of our historic concept of station allocation, but rather to determine whether a rule should be adopted to prohibit misleading announcements regarding station location as presently assigned. As Commissioner Johnson recognizes in his concurring statement, we have in some areas permitted a substantial increase of interference in order to grant applications for first local transmission services. If we were now to relieve such licensees of their local service obligations we might well reconsider the need for so many facilities in some metropolitan areas.

7. Until such time as we may consider revising our basic policy in allocating facilities, we shall continue to license stations primarily to serve their own communities and secondarily to serve their entire coverage areas. Although the contention has been made that all metropolitan areas are now homogeneous and have the same programing needs, we have been presented no evidence to support such a proposition. Indeed, the tremendous growth of suburban newspapers in recent years would lead to the conclusion that although many suburbanites work in the principal city, they retain their interest in the political, civic, cultural, social, and educational affairs of their home communities.

8. In releasing our notice of proposed rule making, we recognized that if such a rule were finally adopted it would be desirable to issue a supplementary list of examples of its application for the guidance of licensees. We did not release a list of examples at that time because we believed that comments of interested parties in the proceeding would be of assistance to us in preparing the examples. This has proved true. We have considered all suggestions and questions of interpretation submitted in the comments, and are incorporating by reference in the rule examples of ways in which we intend to apply the rule to specific practices. We previously followed this practice with respect to rules on sponsorship identification and fraudulent billing practices, and it apparently has proved helpful. The list of examples will be enlarged as experience dictates. We believe the examples already set forth will materially assist licensees in achieving compliance, will answer most of the specific questions posed in the comments, and will serve to negate the criticism advanced in some comments to the effect that the rule is vague and lacks clearly defined standards.[5]

9. Consideration of the comments submitted in this proceeding has confirmed the belief expressed in the notice of proposed rule making that "the proposed amendments would bring about an end to efforts to confuse or mislead the audience as to the city to which a station is licensed, and that they are appropriate and necessary means to carry out our functions under the public interest standard of the Communications Act."

10. Authority for the amendments herein adopted is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

11. *Accordingly, it is ordered,* That the amendments contained as set forth below are adopted, effective December 4, 1967.

12. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 11, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[6]

[SEAL] BEN F. WAPLE, *Secretary.*

1. Section 73.117 of the Commission's rules and regulations is amended by adding new paragraph (g) and a note to the end thereof to read as follows:

§ 73.117 Station identification.

* * * * *

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

2. Section 73.287 of the Commission's rules and regulations is amended by adding new paragraph (g) and a note to the end thereof to read as follows:

§ 73.287 Station identification.

* * * * *

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

3. Section 73.652 of the Commission's rules and regulations is amended by adding a new paragraph (c) and a note to the end thereof to read as follows:

§ 73.652 Station identification.

* * * * *

(c) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead its audience to believe that the station has been assigned to a city other than that specified in its license.

NOTE: Commission interpretations in connection with this Rule may be found in a separate public notice issued Oct. 30, 1967, entitled "Applicability of Rule Regarding the Broadcast of Misleading Statements Regarding a Station's Licensed Location." (FCC 67-1132).

[F.R. Doc. 67-12952; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket No. 17627; FCC 67-1179]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Certain FM Broadcast Stations

In the matter of Amendment of § 73.202 *Table of Assignments,* FM Broadcast Stations. (Tazewell, Va., Guntersville, Ala., Winnsboro, La., Fosston, Minn., Tuscola, Ill., Mansfield, Pa., Cathedral City, Calif., Harrodsburg, Ky., Pipestone, Minn., Albany, N.Y., Murfreesboro, Ahoskie, Washington, Plymouth, and New Bern, N.C., Laurel, Miss., Ukiah, Calif., and Carbondale, Ill.), Docket No. 17627, RM-1154, RM-1153, RM-1155, RM-1146, RM-1162, RM-1158, RM-1163, RM-1172, RM-1141, RM-1148, FM-1121, RM-1165, RM-1125, RM-1168.

Report and order. 1. The Commission has before it for consideration its notice of proposed rule making, issued in this proceeding on July 31, 1967, (FCC 67-883) and published in the FEDERAL REGISTER on August 3, 1967 (32 F.R. 11283) inviting comments on a number of changes in the FM Table of Assignments proposed by various interested parties. The following determinations were made after due consideration of all the comments and data filed in the proceeding. Except as noted, the proposals were unopposed. All population figures were taken from the 1960 U.S. Census, unless otherwise stated. This decision disposes of all the above-listed petitions.

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[5] The National Association of Educational Broadcasters, for some of the same reasons advanced by commercial broadcasters and set forth in pars. 3 and 4 above, asked that the Commission state that the amendments to the rules do not apply to the operations of noncommercial educational stations. However, as we have explained, the rules would not prevent a station from truthfully describing its service area, and therefore we believe it would impose no hardship on noncommercial stations.

[6] Dissenting statement of Commissioner Loevinger in which Chairman Hyde joins; and concurring statement of Commissioner Johnson in which Commissioner Wadsworth concurs filed as part of the original document; Commissioner Bartley absent.

2. *RM–1154. Tazewell, Va.* (C. A. Hess, W. H. Bowen, and Fred Cox); *RM–1153. Guntersville, Ala.* (Guntersville Broadcasting Co.); *RM–1146. Fosston, Minn.* (Fosston Broadcasting Co.); *RM–1162. Tuscola, Ill.* (Charles R. Banks); *RM–1163. Cathedral City, Calif.* (Glen Barnett); *RM–1172. Harrodsburg, Ky.* (Fort Harrod Broadcasting Co.).

In these six cases interested parties seek the first Class A assignment in communities having no FM assignments and without requiring any other changes in the Table. The communities range in size from a population of 1,704 persons to 6,592 persons. One has a Class IV AM station (Cathedral City, Calif.) and the remainder have a daytime-only station each. We are of the view that the requested assignments are merited and that they would serve the public interest. We are therefore assigning Channel 240A to Guntersville, Ala., 276A to Cathedral City, Calif., 228A to Tuscola, Ill., 257A to Harrodsburg, Ky., 296A to Fosston, Minn., and 261A to Tazewell, Va.

3. *RM–1155. Winnsboro and Bastrop La.* In repsonse to a petition for rule making filed on May 18, 1967, by KMAR Broadcasting Corp., licensee of Station KMAR(AM), Winnsboro, La., we invited comments on its proposal requesting the assignment of Channel 224A to Winnsboro. This community has a population of 4,437 persons and is the parish seat of Franklin Parish, which has a population of 26,088 persons. KMAR urges that this community enjoys a diversified industrial pattern and is an important agricultural and business center as well, and that it merits the assignment of a first unlimited time radio outlet.

4. Noe Enterprises, Inc., licensee of television Station KNOE–TV, Channel 8, Monroe, La., supports the request for an FM assignment in Winnsboro, but proposes that another assignment be made in order to avoid what is described as harmful interference which may result to the reception of KNOE–TV in Winnsboro due to the second harmonic of the proposed FM station falling within the KNOE–TV channel. It is proposed to assign Channel 240A to Winnsboro by substituting Channel 232A for 240A at Bastrop as follows:

City	Channel No.	
	Present	Proposed
Winnsboro, La.		240A
Bastrop, La.	240A	232A

Noe points out that the counterproposal conforms to all the spacing rules, would provide Winnsboro with an FM assignment, and would not create interference to any locally received TV station. No application has been filed for the present Bastrop assignment. KMAR states that it does not object to the substitution proposed by Noe.

5. We are of the view that Winnsboro merits the assignment of a first FM channel and that such an assignment would serve the public interest since it would provide the community with its first early morning and evening hours radio outlet. We are further of the view that the Noe counterproposal should be adopted. However, since the radio spectrum is too scarce and valuable to afford disuse of particular channels for an indefinite time, we are prepared to assign Channel 224A in the general area in the event there is a future need and demand for it.

6. *RM–1141. Pipestone, Minn.* In a petition for rule making filed on April 27, 1967, KLOH, Inc., licensee of Station KLOH(AM), Pipestone, Minn., requested the substitution of Class C, Channel 254 for Class A, Channel 252A in Pipestone, as follows:

City	Channel No.	
	Present	Proposed
Pipestone, Minn.	252A	254

Pipestone is a community of 5,324 persons and its county, of which it is the seat and largest community, has a population of 13,605 persons. KLOH is a daytime-only station and the only one in Pipestone County and in adjoining Rock County. Petitioner urges that Pipestone needs a Class C assignment to provide coverage to the large area served by KLOH (due to the high conductivity in the area) including the city of Luverne in Rock County, where it has one employee on a full-time basis, that it would represent a more efficient use of the spectrum in that improved service would result without depriving any community of an assignment, and that it would permit broadcasts of vital weather information and other information and entertainment programs during the early morning and evening hours.

7. While Pipestone is only 35 miles southwest of Sioux Falls, S. Dak., where four Class C assignments have been made, KLOH submits that there is little expectation that these stations, located in another State, would provide the local program needs of Rock and Pipestone Counties. An engineering showing is also included to prove that a substantial area and population would be served with a first FM signal ("white area"). Based upon assumption of "reasonable facilities" of 100 kw power and antenna height of 400 feet above average terrain (resulting in a radius of 35 miles to the 1 mv/m contour) for all existing and assigned Class C channels in the area and for the proposed station, KLOH shows that an additional area of 1,083 square miles, containing 15,797 persons, would receive a first FM signal of 1 mv/m field strength as against a Class A station at the same location and with maximum Class A facilities.

8. Normally, a community the size of Pipestone is assigned a Class A channel, as was done in this case. However, in view of the isolation of the community from large population centers, and the large "white area" which would be served made by the petitioner, we are adopting the KLOH proposal to substitute a Class C for the Class A channel assigned. It is expected that the petitioner or any other party filing for Channel 254 at Pipestone will utilize the facilities (or the equivalent thereto) assumed in computing the "white area" to be served by the Class C assignment.

9. *RM–1148. Albany, N.Y.* On May 5, 1967, and supplemented on June 20, 1967, WPOW, Inc., licensee of Station WHAZ (AM), Troy, N.Y., filed a petition requesting the addition of Channel 299 as a third Class B assignment to Albany, N.Y., as follows:

City	Channel No.	
	Present	Proposed
Albany, N.Y.	233, 235A, 276A, 280A, 293	233, 235A, 276A, 280A, 293, 299

Albany has a population of 129,726 and its Standard Metropolitan Statistical Area (Albany-Schenectady-Troy) has a population of 657,503. There are four unlimited time AM stations operating in Albany. The two Class B assignments are in operation as is one Class A (276A). No applications have been filed for the remaining Class A assignments. There is one Class B assignment each in Schenectady (population 81,682) and Troy (population 67,492), the former also having two fulltime AM stations and the latter one fulltime and one daytime-only AM station.

10. In support of its proposal, petitioner urges that Albany is not only the capital of New York State but also the principal city in the 38th largest metropolitan area in the nation, that Channel 299 would be only the fifth Class B assignment to the three-city complex, and that it would not require any other changes in the Table. WPOW, Inc., also cites the description of a Class A assignment found in § 73.206(a) (2) of the rules to justify the request for a Class B channel, in spite of the fact that Class A channels are available in the community. WPOW also shows that no possible assignments would be precluded on the pertinent adjacent channels by the proposed addition of Channel 299 to Albany. As to the proposed assignment, petitioner demonstrates that there is a small irregular area in which this assignment can be made with only a few communities (other than Albany) located therein and which already have at least one Class A assignment. In view of the above, petitioner submits that the proposal conforms with the "Policy to Govern Requests for Additional FM Assignments" issued on May 12, 1967 and would achieve a fair and equitable distribution of available facilities with due regard for future needs of other communities.

11. In setting up the present FM Table of Assignments an attempt was made to assign from four to six Class B assignments to a city the size of Albany. Since it was not possible at the time to assign all Class B channels to Albany, a

mixture of Class A and B were assigned. Considering the three communities together we would have assigned from six to ten such assignments. In view of the fact that the proposal would not exceed the criteria used in drafting the Table and that the proposed addition would not preclude future needed assignments in other communities, we are adopting the petitioner's proposal as outlined above.

12. *RM–1121. Murfreesboro, Ahoskie, Washington, Plymouth and New Bern, N.C.* In a petition for rule making filed on March 14, 1967, and amended on June 12, 1967, Murfreesboro Broadcasting Corp., licensee of Station WWDR(AM), Murfreesboro, N.C., requests the assignment of Channel 252A to Murfreesboro, N.C., by making the necessary changes in four other North Carolina communities as follows:

City	Channel No.	
	Present	Proposed
All in North Carolina:		
Murfreesboro		252A
Ahoskie	249A	257A
Washington	252A	249A
Plymouth	257A	240A
New Bern	249A	257A

13. Murfreesboro has a population of 2,643 and the county in which it is located has a population of 22,718. Petitioner states that the area (northeast North Carolina) is primarily an agricultural section but that new industry is locating in the area. In submits that Murfreesboro is a trade center for its own county, Hertford, and the neighboring county, Northampton, since the latter has no trade center of its own. In view of the fact that the only station in Murfreesboro is a daytime-only station, the proposal would provide the first local nighttime service and the first FM service and that it would give the people access to local emergency weather and news bulletins, sports, concerts, etc.

14. None of the channels proposed to be changed are occupied with the exception of Channel 249A, assigned to New Bern. There is an outstanding construction permit for the use of this assignment at Bridgeton (WVWB–FM) and the proposal would require a modification of this authorization to specify Channel 257A in lieu of 249A. The construction permit for this station was granted on November 29, 1965, but the station has not yet been constructed. The most recent extension of time for this permit was made subject to the condition that no further extensions would be granted absent evidence of substantial progress toward completion of construction. An application is on file for Channel 249A at Ahoskie and this would have to be amended in the event the proposal is adopted.

15. We are of the view that Murfreesboro merits its first FM outlet in order that it may obtain its first early morning and evening hours radio facility. This is especially necessary in an area which is primarily an agricultural one, as is the area surrounding this community. The proposal would require an applicant (at Ahoskie) to amend the application and a permittee (at Bridgeton), which has not yet constructed the proposed station, to change its frequency. However, we believe these small inconveniences to be of insufficient significance to preclude the proposed assignment. We are thus assigning Channel 252A to Murfreesboro, making the other necessary changes in the communities affected, and modifying the authorization of WVWB–FM accordingly.

16. *RM–1165. Laurel, Miss.* New Laurel Radio Station, Inc., licensee of Station WAML(AM), Laurel, Miss., in a petition filed on June 5, 1967, requested the assignment of Channel 272A to Laurel as follows:

City	Channel No.	
	Present	Proposed
Laurel, Miss.	262	262, 272A

Laurel has a population of 27,889 and its county (Jones) has a population of 59,542. It has three AM stations, two daytime-only and one Class IV, licensed to petitioner. WNSL–FM operates on Channel 262. Petitioner submits that Laurel and Jones County is one of the largest areas in the State and that it merits additional FM service, that the assignment is technically feasible, and that Channel 272A is feasible only in a small area in which one other town is located. None of the Class C channels are available to Laurel.

17. In view of our reluctance to assign a mixture of classes of stations in the same community, we invited comments on this aspect of the proposal and, in addition, requested a showing on the possible preclusion of needed future assignments in other communities on the same and the six adjacent channels. See Public Notice—Policy to Govern Requests for Additional FM Assignments, issued on May 12, 1967.

18. The assignment of Channel 272A to Laurel would not preclude assignments on the six adjacent channels in the general area in view of the existing stations and assignments surrounding Laurel. There would, however, be an area in which use of Channel 272A itself would be precluded. With the exception of nearly Ellisville, there are no communities of substantial size which do not have an FM assignment already. As to Ellisville (population 4,592) Channel 272A would be available to it as well as another channel in the event there is a future need or demand for one. Thus, the proposed addition does not appear to have any adverse effect on the future needs of other communities for FM assignments. In view of this and the size of Laurel, we are of the view that the proposal would serve the public interest and should be adopted. Accordingly, we are assigning Channel 272A to Laurel as a second FM radio outlet.

19. *RM–1125. Ukiah, Calif.* In response to a petition for reconsideration of its memorandum opinion and order issued in RM–1125 on May 15, 1967, FCC 67–564, denying the request of J & W Broadcasters, permittee of Station KLIL(FM) on Channel 232A at Ukiah, for the substitution of Channel 233 for 232A at Ukiah, Calif., we invited comments on the proposal as follows:

City	Channel No.	
	Present	Proposed
Ukiah, Calif.	228A, 232A	228A, 233

Ukiah, the county seat and largest community in Mendocino County, has a population of 9,900 and the county has a population of 51,059. There are two AM stations in the community, a daytime-only station and a Class IV station. There are two outstanding construction permits for the two presently assigned Class A FM channels, including KLIL(FM).

20. The request for the substitution of the Class B channel for the Class A was previously denied on the grounds that there was no showing of need for the wide-area coverage assignment, that no showing was made that unserved areas would be covered, that future needed assignments could be precluded elsewhere, and that no justification was given for the mixture of a Class A and B channel in the same community. J & W urge that their petition for reconsideration now makes all the showings called for in the denial and that it fully justifies the proposal in accordance with the policy statement issued by the Commission on May 12, 1967, Policy to Govern Requests for Additional FM Assignments. J & W submit that Ukiah is far removed from other larger communities, with the nearest being Santa Rosa about 56 miles distant, that it is located in a very mountainous area making it difficult to cover the small communities near Ukiah, and that all the area which would be served by a Class B assignment but not by a Class A station is without any FM service. With respect to the possible future impact on the proposed channel and the pertinent six adjacent channels, petitioner shows that, with the exception of one channel (234), there would not result any preclusion of assignments in the future due to the proposal. On Channel 234 two areas would not be able to have assignments but in both areas about 12 channels are available for future needs or demands. Concerning the matter on intermixture of a Class A and B channel in the community, J. & W states that this can be eliminated since Channel 277 and 298 can also be assigned to Ukiah and thus the intermixture would be "based solely upon the desire, and perhaps the financial ability, of the licensees and permittees to provide wide area service".

21. After consideration of the comments and data submitted by the petitioner, we are of the view that the proposed substitution of a Class B for a Class A assignment in Ukiah would serve the public interest and should be adopted. The new assignment would serve a large

area presently without any FM service without any adverse effect upon the future availability of needed assignments in other communities. Since J & W hold a construction permit for Channel 232A for Station KLIL(FM) and the proposal would substitute another channel for this one, we are also modifying this authorization to specify operation on Channel 233 in lieu of 232A.

22. *RM–1168. Carbondale, Ill.* On June 12, 1967 (amended July 7, 1967), Paul F. McRoy, licensee of Station WCIL(AM), Carbondale, Ill., filed a petition requesting the substitution of Channel 268 for 269A at Carbondale, Ill., as follows:

City	Channel No.	
	Present	Proposed
Carbondale, Ill.	269A	268

Carbondale has a population of 14,670 and Jackson County, of which it is the largest community, has a population of 42,151. No applications have been filed for the present Class A assignment. It has a daytime-only AM station (WCIL) and a noncommercial educational FM station licensed to Southern Illinois University (WSIU). Petitioner submits that according to a special U.S. Census on December 28, 1964, the population of Carbondale was 18,531 and that since then the population has increased as a result of annexation to 20,516. In addition, petitioner urges that the growth in the enrollment at Southern Illinois University from 1,482 in 1935 to 18,188 in 1967 is mirrored in the growth of Carbondale. In view of this, McRoy urges that Carbondale easily merits the assignment of a Class B channel.

23. McRoy previously sought a Class B assignment by deleting a Class C assignment from Cape Girardeau, Mo. He states that this request was denied principally on the grounds that the deletion from Cape Girardeau would deprive a "white area" to the west of that city and the substitution of a Class A channel for the Class C at Cape Girardeau would result in a mixture of classes of stations in the community. See memorandum opinion and order in RM–1115 issued on April 17, 1967, 7 FCC 2d 848. McRoy submits that the above considerations leading to the denial of the previous request are not pertinent to the subject request since the assignment of Channel 268 to Carbondale can be accomplished without depriving any other community of an assignment. With respect to the possible impact of the assignment of Channel 268 to Carbondale, McRoy shows that this channel is technically feasible only in an area of southern Illinois in which Carbondale is by far the largest community. As to the impact on the six adjacent channels, petitioner includes a showing which demonstrates that none of these channels would be precluded in any area which is not already precluded by existing stations and assignments in other communities.

24. Normally a community the size of Carbondale would warrant the assignment of a Class A channel. However, since in this case the switch from Class A Channel 269A to the next lower adjacent Class B Channel 268 can be accomplished without any adverse effect on the future needs of other communities and would provide this fast growing community and its environs with a stronger and more satisfactory signal, we are of the view that the proposal would serve the public interest. We are therefore adopting the McRoy request.

25. *RM–1158. Mansfield, Pa.* Farm and Home Broadcasting Co., licensee of radio Station WNBT, Wellsboro, Pa., in a petition filed on May 22, 1967, requests the assignment of a first Class A channel to Mansfield, Pa., by one of the following alternative means:

City	Channel No.	
	Present	Proposed
Wellsboro, Pa.	249A	249A
Mansfield, Pa.	----------	296A
or		
Wellsboro, Pa.	249A	296A
Mansfield, Pa.	----------	249A

Since the first alternative is simpler, we invited comments on the first alternative proposal to make a Class A channel available to each community. Wellsboro is a community of 4,369 persons and Mansfield of 2,678 persons. They are about 12 miles apart and both are located in Tioga County, which has a population of 36,614. Wellsboro is the county seat. WNBT, a Class IV AM station, is the only station in the county and Channel 249A the only FM assignment. There are two applications pending for Channel 249A, one from petitioner and the other from Tioga Broadcasting Co., seeking a new FM station in Mansfield (under the so-called "25-mile rule"). Since the applications are mutually exclusive, a comparative hearing will be necessary.

26. In support of its request petitioner submits that there is a need for a local station in each community and that each can economically support such a station. Figures are submitted on retail establishments and sales for the county and each community. It states that Tioga County has 420 retail establishments with annual sales of $36,642,000, that Wellsboro has 84 retail establishments with an annual sales of $11,012,000, and that Mansfield has 47 such retail trade establishments with annual sales of $5,433,000. It points out that while the two assignments would have a large area in which the 1-mv/m contours would overlap, there will be other areas where there will be no overlap and small areas in which there is no other FM service or only one other FM service. Petitioner also includes an engineering statement showing that there would be no areas precluded from the use of all the adjacent channels due to existing stations and assignments in the general area. It does concede that there will be an area in which Channel 296A would be precluded and lists a number of such communities, which include Lock Haven, Jersey Shore, Shinglehouse, Pa., Portville, and Andover, N.Y. With respect to Lock Haven and Jersey Shore it states that Channel 261A could be assigned to these communities and that nearby assignments are available to the others under the "25-mile rule". Finally, petitioner submits that the proposal would eliminate the need for a comparative hearing and would permit an early grant to both applicants.

27. Tioga opposes the proposal to assign a Class A channel to both Wellsboro and Mansfield. It urges that the county does not need three broadcast services and that it cannot afford to support them. It submits that the county is a rural low-income region of eastern Appalachia and has been officially designated by the U.S. Government as a poverty area. The median family income for the county is given as $4,775, which it is claimed places it near the bottom of the State's average. The percentage of rural population is stated to be over 80 and the population density is given as 32 persons per square mile. Tioga further states that the principal industries consist of highly seasonal tourist trade and agriculture and that about 90 percent of the advertising budgets are applied to out-of-county advertising, and that the almost stagnant economic situation is reflected in the "de minimis" population increase for the area since 1940. The failure, due to lack of advertising support, of two local newspapers in the area and the financial difficulty of the existing local paper are cited as further evidence of the inability of the area to support two additional broadcast stations. Thus, Tioga urges that there is no need or support for the proposed additional assignment.

28. As to the areas which would be precluded from future needed assignments, Tioga points out that Channel 296A would be precluded from Lock Haven (population 11,748), Mill Hall (1,891), Jersey Shore (5,613) and Avis (1,262). While petitioner pointed out that Channel 261A could be assigned to these communities, Tioga states that they are but a few miles apart and therefore Channel 261A could be used to supply the needs of only one of them. It also submits figures to show that the counties in which the above-named communities are located (Lycoming and Clinton) have greater population, urban population, persons per square mile, total retail sales, and median family income. Finally, Tioga argues that in the event future developments should warrant an additional assignment, the Commission will be in a better position to evaluate the public need at that time, after the presently assigned channel has been activated.[1]

[1] On Oct. 20, 1967, 21 days after the last date for filing reply comments, Farm and Country filed pleadings intended to be a reply to the reply comments of Tioga. These requests seek permission to file rebuttal comments. Normally there is no provision for rebuttal comments in rule making and we do not believe there is a need to make an exception in this case since the parties had ample opportunity to submit their views and data during the time provided. We are therefore denying the request to accept the late pleading of Farm and Country.

29. After careful consideration of all the comments and data submitted by the parties we are of the view that the petitioner's proposal should not be adopted. In our view there has been no compelling showing of need or that the present assignments do not represent a fair and equitable distribution of available facilities, taking into account the future needs of other communities. The assignment of one unlimited time AM station and one FM assignment in these small communities (total population 7,047) appears to be adequate to meet the local needs. Since the proposed assignment could preclude future needed assignments in other and larger communities we are inclined to agree with Tioga that we should not use up the available frequencies at this time but should wait future developments in the general area until the present FM assignment has been in operation for some time. We are accordingly denying the petition of Farm and Home Broadcasting Co., RM–1158.

30. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

31. In accordance with the determinations made above: *It is ordered,* That effective December 4, 1967, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named are concerned, as follows:

City	*Channel No.*
Alabama:	
Guntersville	240A
California:	
Cathedral City	276A
Ukiah	228A, 233
Illinois:	
Carbondale	268
Tuscola	228A
Kentucky:	
Harrodsburg	257A
Louisiana:	
Bastrop	232A
Winnsboro	240A
Minnesota:	
Fosston	296A
Pipestone	254
Mississippi:	
Laurel	262, 272A
New York:	
Albany	238, 265A, 276A, 280A, 293, 299
North Carolina:	
Ahoskie	257A
Murfreesboro	252A
New Bern	257A
Plymouth	240A
Washington	249A
Virginia:	
Tazewell	261A

32. *It is further ordered,* That the outstanding construction permit held by V.W.B. Inc., for Station WVWB–FM, Channel 249A at Bridgeton, N.C., is modified, to specify operation on Channel 257A in lieu of 249A subject to the following conditions.

(a) That the permittee shall submit to the Commission in writing by November 8, 1967, its consent to the above modification.

(b) That the permittee shall submit to the Commission by November 24, 1967, all the technical information normally required for the issuance of a construction permit for operation on Channel 257A including any changes in antenna and transmission line.

33. *It is further ordered,* That the outstanding permit held by J & W Broadcasters, for Station KIL(FM) at Ukiah, Calif., on Channel 232A, is modified to specify operation on Channel 233 in lieu of 232A subject to the following condition:

(a) That the permittee shall submit to the Commission by November 24, 1967, all the technical information normally required for the issuance of a construction permit for operation on Channel 233, including any changes in antenna and transmission line.

34. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat. 1066, 1082, 1083, as amended, Sec. 316, 66 Stat. 717; 47 U.S.C. 154, 303, 307, 316)

Adopted: October 25, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–12954; Filed, Nov. 1, 1967; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Sand Lake National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; big game; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Sand Lake National Wildlife Refuge, S. Dak., is permitted only on the area designated by signs as open to hunting. This open area comprising 20,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Archery season—December 11 through December 31, 1967 inclusive.

(2) Firearms season—December 2 through December 10, 1967 inclusive.

(3) All hunters must exhibit their hunting license, deer tag and vehicle contents to Federal and State officers upon request.

(4) Hunters will not be allowed to drive on refuge maintained trails but may park their vehicles and hunt on foot.

(5) All deer taken on the refuge not checked by State or Federal officers in the field must be checked at refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1967.

LYLE J. SCHOONOVER,
Refuge Manager,
Sand Lake National Wildlife Refuge.

OCTOBER 19, 1967.

[F.R. Doc. 67–12927; Filed, Nov. 1, 1967; 8:46 a.m.]

PART 33—SPORT FISHING

De Soto National Wildlife Refuge, Iowa and Nebraska

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the De Soto National Wildlife Refuge, Iowa and Nebraska, is permitted on all water areas within the refuge. This open area, comprising 850 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing is subject to the following conditions:

(1) All fishermen shall conform with the regulations of the State in which they are properly licensed, either Iowa or Nebraska, subject to more restrictive regulations that may be included herein.

(2) Open season: Daylight hours January 1, 1968 through February 28, 1968, and 4:30 a.m. to 10 p.m. May 1, 1968 through September 15, 1968.

(3) Trot lines and float lines are not permitted.

(4) Archery fishing is not permitted.

(5) Digging or seining for bait is not permitted.

(6) No more than two lines with two hooks on each line may be used for fishing.

(7) Motor or wind driven conveyances are not permitted on the lake during the period January 1 to February 28.

(8) The use of boats, with or without motors, is permitted during the period May 1 to September 15.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 15, 1968.

KERMIT D. DYBSETTER,
Refuge Manager, De Soto National Wildlife Refuge, Missouri Valley, Iowa.

OCTOBER 25, 1967.

[F.R. Doc. 67–12950; Filed, Nov. 1, 1967; 8:48 a.m.]

[2] Commissioner Bartley absent.

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Deduction for Dividends Received by Corporations

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 214 of the Revenue Act of 1964 (78 Stat. 52) such regulations are amended as follows:

PARAGRAPH 1. Section 1.243–1 is amended to read as follows:

§ 1.243–1 Deduction for dividends received by corporations.

(a) (1) A corporation is allowed a deduction under section 243 for dividends received from a domestic corporation which is subject to taxation under chapter 1 of the Internal Revenue Code of 1954.

(2) Except as provided in section 243 (c) and in section 246, the deduction is:

(i) For the taxable year, an amount equal to 85 percent of the dividends received from such domestic corporations during the taxable year (other than dividends to which subdivision (ii) or (iii) of this subparagraph applies)

(ii) For a taxable year beginning after September 2, 1958, an amount equal to 100 percent of the dividends received from such domestic corporations if at the time of receipt of such dividends the recipient corporation is a Federal licensee under the Small Business Investment Act of 1958 (15 U.S.C. ch. 14B) However, to claim the deduction provided by section 243(a) (2) the company must file with its return a statement that it was a Federal licensee under the Small Business Investment Act of 1958 at the time of the receipt of the dividends.

(iii) For a taxable year ending after December 31, 1963, an amount equal to 100 percent of the dividends received which are "qualifying dividends," as defined in section 243(b) and § 1.243–4.

(3) To determine the amount of the distribution to a recipient corporation and the amount of the dividend, see §§ 1.301–1 and 1.316–1.

(b) For limitation on the dividends received deduction, see section 246 and the regulations thereunder.

PAR. 2. Section 1.243–2 is amended by deleting the references to section 243(b) which appear in paragraphs (a) and (b) thereof, and by adding a new paragraph (d) at the end thereof. These revised and added provisions read as follows:

§ 1.243–2 Special rules for certain distributions.

(a) *Dividends paid by mutual savings banks, etc.* In determining the deduction provided in section 243(a), any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, cooperative banks, and domestic building and loan associations) shall not be considered as a dividend.

(b) *Dividends received from regulated investment companies.* In determining the deduction provided in section 243(a), dividends received from a regulated investment company shall be subject to the limitations provided in section 854.

* * * * *

(d) *Dividends received on preferred stock of a public utility.* The deduction allowed by section 243(a) shall be determined without regard to any dividends described in section 244 (relating to dividends on the preferred stock of a public utility) That is, such deduction shall be determined without regard to any dividends received on the preferred stock of a public utility which is subject to taxation under chapter 1 of the Code and with respect to which a deduction is allowed by section 247 (relating to dividends paid on certain preferred stock of public utilities) For a deduction with respect to such dividends received on the preferred stock of a public utility, see section 244. If a deduction for dividends paid is not allowable to the distributing corporation under section 247 with respect to the dividends on its preferred stock, such dividends received from a domestic public utility corporation subject to taxation under chapter 1 of the Code are includible in determining the deduction allowed by section 243(a)

PAR. 3. There are inserted immediately after § 1.243–3 the following new sections:

§ 1.243–4 Qualifying dividends.

(a) *Definition of qualifying dividends*—(1) *General.* For purposes of section 243(a) (3) the term "qualifying dividends" means dividends received by a corporation if—

(i) At the close of the day the dividends are received, such corporation is a member of the same affiliated group of corporations (as defined in paragraph (b) of this section) as the corporation distributing the dividends,

(ii) An election by such affiliated group under section 243(b) (2) and paragraph (c) of this section is effective for the taxable years of its members which include such day, and

(iii) The dividends are distributed out of earnings and profits specified in subparagraph (2) of the paragraph.

(2) *Earnings and profits.* The earnings and profits specified in this subparagraph are earnings and profits of a taxable year of the distributing corporation (or a predecessor corporation) which satisfies each of the following conditions:

(i) Such year end must end after December 31, 1963;

(ii) On each day of such year the distributing corporation (or the predecessor corporation) and the corporation receiving the dividends must have been members of the affiliated group of which the distributing corporation and the corporation receiving the dividends are members on the day the dividends are received; and

(iii) An election under section 1562 (relating to the election of multiple surtax exemptions) must not be effective for such year.

(3) *Special rule for insurance companies.* Notwithstanding the provisions of subparagraph (2) of this paragraph, if an insurance company subject to taxation under section 802 or 821 distributes a dividend out of earnings and profits of a taxable year with respect to which the company would have been a component member of a controlled group of corporations within the meaning of section 1563 were it not for the application of section 1563(b) (2) (D) such dividend shall not be treated as a qualifying dividend unless an election under section 243(b) (2) is effective for such taxable year.

(4) *Predecessor corporations.* For purposes of this paragraph, a corporation shall be considered to be a predecessor corporation with respect to a distributing corporation if the distributing corporation succeeds to the earnings and profits of such corporation, for example, as the

result of a transaction to which section 381(a) applies. A distributing corporation shall, for purposes of this section, maintain, in respect of each predecessor corporation, a separate account for earnings and profits to which it succeeds, and such earnings and profits shall be considered to be earnings and profits of the predecessor's taxable year in which the earnings and profits were accumulated.

(5) *Mere change in form.* For purposes of subparagraph (2)(ii) of this paragraph, the affiliated group in existence during the taxable year out of the earnings and profits of which the dividend is distributed shall not be considered as a different group from that in existence on the day on which the dividend is received merely because—

(i) The common parent corporation has undergone a mere change in identity, form, or place of organization (within the meaning of section 368(a)(1)(F)), or

(ii) A newly organized corporation (the "acquiring corporation") has acquired substantially all of the outstanding stock of the common parent corporation (the "acquired corporation") solely in exchange for stock of such acquiring corporation, and immediately after the acquisition all of the outstanding stock of the acquiring corporation was owned by persons who were shareholders (immediately before the acquisition) of the acquired corporation.

If a transaction described in the preceding sentence has occurred, the acquiring corporation shall be treated as having been a member of the affiliated group for the entire period during which the acquired corporation was a member of such group.

(6) *Source of distributions.* In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316–2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent year. If a dividend is distributed out of separate earnings and profits accounts (established under the provisions of subparagraph (4) of this paragraph) for two or more taxable years ending on the same day, then the portion of such dividend considered as distributed out of each account shall be the same proportion of the total dividend as the amount of earnings and profits in that account bears to the sum of the earnings and profits in all such accounts.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On March 1, 1965, corporation P, a publicly owned corporation, acquires all of the stock of corporation S and continues to hold the stock throughout the remainder of 1965 and all of 1966. P and S are domestic corporations which file separate returns on the basis of a calendar year. The affiliated group consisting of P and S makes an election under section 243(b)(2) which is effective for the 1966 taxable years of P and S. A multiple surtax exemption election under section 1562 is not effective for their 1965 taxable years. On February 1, 1966, S distributes $50,000 with respect to its stock which is received by P on the same date. S had earnings and profits of $40,000 for 1966 (computed without regard to distributions during 1966). S also had earnings and profits accumulated for 1965 of $70,000. Since $40,000 was distributed out of earnings and profits for 1966 and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $40,000 of the $50,000 distribution. However, since $10,000 was distributed out of earnings and profits accumulated for 1965, and since on each day of 1965 S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $10,000 of the $50,000 distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (2). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and sells such stock on November 1, 1966. Since $10,000 is distributed out of earnings and profits for 1965, and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $10,000 of the $50,000 distribution. However, since $40,000 of the $50,000 distribution was made out of earnings and profits of S for its 1966 taxable year, and on each day of such year S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $40,000 of the distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (3). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that a multiple surtax exemption election under section 1562 is effective for P's and S's 1965 taxable years. Further assume that the section 1562 election is terminated effective with respect to their 1966 taxable years, and that an election under section 243(b)(2) is effective for such taxable years. Since $10,000 of the February 1, 1966, distribution was made out of earnings and profits of S for its 1965 taxable year and since a multiple surtax exemption election is effective for such year, $10,000 of the distribution does not satisfy the condition specified in subparagraph (2)(iii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction. However, the portion of the distribution which was distributed out of earnings and profits of S's 1966 year ($40,000) qualifies for the 100-percent dividends received deduction.

Example (4). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that S is a life insurance company subject to taxation under section 802. Accordingly, S would have been a member of a controlled group of corporations except for the application of section 1563(b)(2)(D). Since $10,000 of the distribution was made out of earnings and profits of S for its 1965 taxable year, and since with respect to such year an election under section 243(b)(2) was not effective, $10,000 of the distribution is not a qualifying dividend by reason of subparagraph (3) of this paragraph. On the other hand, the portion of the distribution which was distributed out of earnings and profits for S's 1966 year ($40,000) does qualify for the 100-percent dividends received deduction because the distribution was out of earnings and profits of a year for which an election under section 243(b)(2) is effective, and because the other conditions specified in subparagraphs (1) and (2) of this paragraph are satisfied. However, if P were also a life insurance company subject to taxation under section 802, then subparagraph (3) of this paragraph would not result in the disqualification of the portion of the distribution made out of S's 1965 earnings and profits because S would be a component member of an insurance group of corporations (as defined in section 1563(a)(4)), consisting of P and S, with respect to its 1965 year.

Example (5). Corporation X owns all the stock of corporation Y from January 1, 1965, through December 31, 1969. X and Y are domestic corporations which file separate returns on the basis of a calendar year. On June 30, 1965, Y acquired all the stock of domestic corporation Z, a calendar year taxpayer, and on December 31, 1967, Y acquired the assets of Z in a transaction to which section 381(a) applied. A multiple surtax exemption election under section 1562 was not effective for any taxable year of X, Y, or Z, and an election under section 243(b)(2) is effective for the 1968 and 1969 taxable years of X and Y. On January 1, 1968, Y's accumulated earnings and profits are, under the provisions of subparagraph (4) of this paragraph, maintained in separate earnings and profits accounts containing the following amounts:

Earnings and profits accumulated for	Corporation Y	Corporation Z
1964	$60,000	$40,000
1965	30,000	15,000
1966	(5,000)	2,000
1967	12,000	6,000

Corporation Y had earnings and profits of $10,000 in each of the years 1968 and 1969, and made distributions during such years in the following amounts:

1968	$29,000
1969	31,000

(i) The source of the 1968 distribution, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1968)	$10,000
(b) Dividend from earnings and profits of Y accumulated for 1967	12,000
(c) Dividend from earnings and profits of Z accumulated for:	
1967	6,000
1966	1,000
	29,000

Since the 1968 dividend is considered paid out of earnings and profits of Y's 1968 and 1967 years, and Z's 1967 and 1966 years, and since each of these years satisfies each of the conditions specified in subparagraph (2) of

this paragraph, X is entitled to a 100-percent dividends received deduction with respect to the entire 1968 distribution of $29,000 from Y.

(ii) The source of the 1969 distribution of $31,000, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1969)	$10,000
(b) Dividend from earnings and profits of Z accumulated for 1966 (1966 earnings and profits remaining after 1968 distribution, i.e., $2,000—$1,000)	1,000
(c) Dividend from earnings and profits of Y and Z accumulated for 1965:	
Corporation Y: $25,000 (i.e., $30,000—$5,000 deficit) divided by $40,000 (i.e., the sum of the 1965 earnings and profits of Y and Z) multiplied by $20,000 (the portion of the distribution from the 1965 earnings and profits of Y and Z)	12,500
Corporation Z: $15,000 divided by $40,000 multiplied by $20,000	7,500
	31,000

The sum of the dividends from Y's 1969 year ($10,000), Z's 1966 year ($1,000), and Y's 1965 year ($12,500), or $23,500, qualifies for the 100-percent dividends received deduction. However, the dividends paid out of Z's 1965 year ($7,500) do not qualify because on each day of 1965 Z and X were not members of the affiliated group of which Y (the distributing corporation) and X (the corporation receiving the dividends) were members on the day in 1969 when the dividends were received by X.

(b) *Definition of affiliated group.* For purposes of this section and § 1.243–5, the term "affiliated group" shall have the meaning assigned to it by section 1504(a), except that insurance companies subject to taxation under section 802 or 821 shall be treated as includible corporations (notwithstanding section 1504 (b)(2)), and the provisions of section 1504(c) shall not apply.

(c) *Election*—(1) *Manner and time of making election*—(i) *General.* The election provided by section 243(b)(2) shall be made for an affiliated group by the common parent corporation and shall be made for a particular taxable year of the common parent corporation. Such election may not be made for any taxable year of the common parent corporation for which a multiple surtax exemption election under section 1562 is effective. The election shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the common parent corporation, stating that the affiliated group elects under section 243(b)(2) for such taxable year. The statement shall set forth the name, address, taxpayer account number, and taxable year of each corporation (including wholly owned subsidiaries) which is a member of the affiliated group at any time during such corporation's matching taxable year of election (as defined in subdivision (iv) of this subparagraph), and the identity of the internal revenue district where the original of the statement is to be filed. The statement shall be filed with the district director with whom the common parent corporation files its income tax return for such taxable year and shall be filed on or before the due date (including extensions of time) of such return. (However, if the due date of such return (including extensions of time) is before June 10, 1964, such statement shall be filed on or before June 10, 1964, with the district director with whom such return is filed.)

(ii) *Information statement by common parent.* If a corporation becomes a member of the affiliated group after the date on which the election is filed, then the common parent shall within 60 days after such corporation becomes a member of the affiliated group (or, in the case of an affiliated group which made an election under the rules provided in Treasury Decision 6721, approved April 8, 1964 (29 F.R. 4997, C.B. 1964–1 (Part 1), 625), within 60 days after the publication of this regulation in the FEDERAL REGISTER as a Treasury decision) file, with the district director with whom the election was filed, an additional statement containing the name, address, taxpayer account number, and taxable year of such corporation.

(iii) *Election irrevocable for year of election.* A valid election under section 243(b)(2), once filed and consented to by each member of the affiliated group, is irrevocable for the taxable year of the common parent for which it is made, and cannot be terminated under section 243(b)(4) with respect to such taxable year.

(iv) *Definition of matching taxable year of election.* For purposes of this paragraph and paragraphs (d) and (e) of this section, the term "matching taxable year of election" shall mean the taxable year of each member (including the common parent corporation) of the electing affiliated group which includes the last day of the taxable year of the common parent corporation for which an election by the affiliated group is made under section 243(b)(2).

(2) *Consents by subsidiary corporations*—(i) *General.* Each corporation (other than the common parent corporation) which is a member of the electing affiliated group (including any member which joins in the filing of a consolidated return) at any time during its matching taxable year of election must consent to such election in the manner and time provided in subdivision (ii) or (iii) of this subparagraph, whichever is applicable.

(ii) *Wholly owned subsidiary.* If all of the stock of a corporation is owned by a member or members of the affiliated group on each day of such corporation's matching taxable year of election, then such corporation (referred to in this paragraph as a "wholly owned subsidiary") shall be deemed to consent to such election.

(iii) *Other members.* The consent of each member of the affiliated group (other than a wholly owned subsidiary) shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the consenting member, stating that such member consents to the election under section 243(b)(2). The statement shall set forth the name, address, taxpayer account number, and taxable year of the consenting member and of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the election filed by the common parent corporation. The consent of a corporation which, after the date the election was filed and during its matching taxable year of election, either (a) becomes a member, or (b) ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the district director with whom the election was filed. Any such consent shall be filed on or before the date prescribed by law (including extensions of time) for the filing of the consenting member's income tax return for such taxable year, or on or before June 10, 1964, whichever is later. A consent of a corporation described in this subdivision, once filed, is irrevocable with respect to the taxable year for which it is filed.

(iv) *Statement attached to return.* Each corporation which consents to an election by means of a statement described in subdivision (iii) of this subparagraph (a) should attach a copy of the statement to the income tax return for its matching taxable year of election, or (b) if such return is filed on or before June 10, 1964, should file a copy of such statement on or before June 10, 1964, with the district director with whom such return is filed. Each wholly owned subsidiary should attach a statement to the income tax return for its matching taxable year of election stating that it is subject to an election under section 243(b)(2) for such taxable year and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. However, if the due date for such return (including extensions of time) is before June 10, 1964, such statement should be filed on or before June 10, 1964, with the district director with whom such return is filed.

(3) *Information statement by member.* If a corporation becomes a member of the affiliated group during a taxable year which begins after the last day of the common parent corporation's matching taxable year of election, then (unless such election has been terminated) such corporation should attach a statement to its income tax return for such taxable year stating that it is subject to an election under section 243(b)(2) for such taxable year and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and the identity of the internal revenue district in which the common parent corporation filed the election. In the case of an affiliated group which made an election under the rules provided in Treasury Decision 6721, approved April 8, 1964 (29 F.R. 4997, C.B. 1964–1 (Part 1), 625), such statement

shall be filed within 60 days after the publication of this regulation in the FEDERAL REGISTER as a Treasury decision.

(4) *Years for which election effective*—(i) *General rule.* An election under section 243(b)(2) by an affiliated group shall be effective—

(*a*) In the case of each corporation which is a member of such group at any time during its matching taxable year of election, for such taxable year, and

(*b*) In the case of each corporation which is a member of such group at any time during a taxable year ending after the last day of the common parent's taxable year of election but which does not include such last day, for such taxable year, unless the election is terminated under section 243(b)(4) and paragraph (e) of this section. Thus, the election has a continuing effect and need not be renewed annually.

(ii) *Special rule for certain taxable years ending in 1964.* In the case of a taxable year of a member (other than the common parent corporation) of the affiliated group (*a*) which begins in 1963 and ends in 1964, and (*b*) for which an election is not effective under subdivision (i)(*a*) of this subparagraph, if an election under section 243(b)(2) is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, then such election shall be effective for such taxable year of such member if such member files a separate consent with respect to such taxable year. However, in order for a dividend distributed by such member during such taxable year to meet the requirements of section 243(b)(1), an election under section 243(b)(2) must be effective for the taxable year of each member of the affiliated group which includes the date such dividend is received. See section 243(b)(1)(A) and paragraph (a)(1) of this section. Accordingly, if the dividend is to qualify for the 100-percent dividends received deduction under section 243(a)(3), a consent must be filed under this subdivision by each member of the affiliated group with respect to its taxable year which includes the day the dividend is received (unless an election is effective for such taxable year under subdivision (i)(*a*) of this subparagraph). For purposes of this subdivision, a consent shall be made by means of a statement meeting the requirements of subparagraph (2)(iii) of this paragraph, and shall be attached to the election made by the common parent corporation for its taxable year which includes the last day of the taxable year of the member with respect to which the consent is made. A copy of the statement should be filed, within 60 days after such election is filed by the common parent corporation, with the district director with whom the consenting member filed its income tax return for such taxable year.

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph, relating to the special rule for certain taxable years ending in 1964, may be illustrated by the following examples:

Example (1). P Corporation owns all the stock of S–1 Corporation on each day of 1963, 1964, and 1965. P uses the calendar year as its taxable year and S–1 uses a fiscal year ending June 30 as its taxable year. P makes an election under section 243(b)(2) for 1964. Since S–1 is a wholly owned subsidiary for its taxable year ending June 30, 1965, it is deemed to consent to the election. However, in order for the election to be effective with respect to S–1's taxable year ending June 30, 1964, a statement specifying that S–1 consents to the election with respect to such taxable year and containing the information required in a statement of consent under subparagraph (2)(iii) of this paragraph must be attached to the election.

Example (2). Assume the same facts as in example (1), except that P also owns all the stock of S–2 Corporation on each day of 1963, 1964, and 1965. S–2 uses a fiscal year ending May 31 as its taxable year. If S–1 distributes a dividend to P on January 15, 1964, the dividend may qualify under section 243(a)(3) only if S–1 and S–2 both consent to the election made by P for 1964 with respect to their taxable years ending in 1964.

Example (3). Assume the same facts as in example (1), except that P uses a fiscal year ending on January 31 as its taxable year and makes an election under subparagraph (1) of this paragraph for its taxable year ending January 31, 1964. Since S–1's taxable year beginning in 1963 and ending in 1964 includes January 31, 1964, the last day of P's taxable year for which the election was made, the election is effective under subdivision (i)(*a*) of this subparagraph, for S–1's taxable year ending June 30, 1964. Accordingly, the special rule of subdivision (ii) of this subparagraph has no application.

(d) *Effect of election.* For restrictions and limitations applicable to corporations which are members of an electing affiliated group on each day of their taxable years, see § 1.243–5.

(e) *Termination of election*—(1) *In general.* An election under section 243(b)(2) by an affiliated group may be terminated with respect to any taxable year of the common parent corporation after the matching taxable year of election of the common parent corporation. The election is terminated as a result of one of the occurrences described in subparagraph (2) or (3) of this paragraph. For years affected by termination, see subparagraph (4) of this paragraph.

(2) *Consent of members.* An election may be terminated for an affiliated group by its common parent corporation with respect to a taxable year of the common parent corporation provided each corporation (other than the common parent) which is a member of such affiliated group at any time during its taxable year which includes the last day of such year of the common parent consents to such termination. The termination shall be filed by the common parent in accordance with the rules prescribed in paragraph (c)(1) of this section, relating to the manner and time for making an election under section 243(b)(2), and the consents to the termination shall be given by the other members in accordance with the rules prescribed in paragraph (c)(2) of this section, relating to manner and time for giving consents to an election under section 243(b)(2). Thus, for example, the common parent shall file a statement which satisfies the requirements of paragraph (c)(1) of this section stating that the affiliated group terminates the section 243(b)(2) election with respect to a particular taxable year of the common parent corporation, and the statement shall be filed on or before the due date (including extensions of time) for the filing of the income tax return for such taxable year. For a further example, if all of the stock of a corporation is owned by a member or members of the affiliated group on each day during its taxable year which includes the last day of the common parent's taxable year for which a termination is made under this subparagraph, for purposes of this subparagraph such corporation shall be considered to be a wholly owned subsidiary and shall be deemed to consent to such termination.

(3) *Refusal by new member to consent*—(i) *Manner of giving refusal.* If any corporation which is a new member of an affiliated group with respect to a taxable year of the common parent corporation (other than the matching taxable year of election of the common parent corporation) files a statement that it does not consent to an election under section 243(b)(2) with respect to such taxable year, then such election shall terminate with respect to such taxable year. Such statement shall be signed by any person who is duly authorized to act on behalf of the new member, and shall be filed with the timely filed income tax return of such new member for its taxable year within which falls the last day of such taxable year of the common parent corporation. In the event of a termination under this subparagraph, each corporation (other than such new member) which is a member of the affiliated group at any time during its taxable year which includes such last day should, within 30 days after such new member files the statement of refusal to consent, notify the district director of such termination. Such notification should be filed with the district director with whom the corporation files, or will file, its income tax return.

(ii) *Corporation considered as new member.* For purposes of subdivision (i) of this subparagraph, a corporation shall be considered to be a new member of an affiliated group of corporations with respect to a taxable year of the common parent corporation if such corporation—

(*a*) Is a member of the affiliated group at any time during such taxable year of the common parent corporation, and

(*b*) Was not a member of the affiliated group at any time during the common parent corporation's immediately preceding taxable year.

(4) *Effect of termination.* A termination under subparagraph (2) or (3) of this paragraph is effective with respect to (i) the common parent corporation's taxable year referred to in the particular subparagraph under which the termination occurs, and (ii) the taxable years of the other members of the affiliated group which include the last day of such taxable year of the common parent. An election, once terminated, is no longer

effective. Accordingly, the termination is also effective with respect to the succeeding taxable years of the members of the group. However, the affiliated group may make a new election in accordance with the provisions of section 243(b)(2) and paragraph (c) of this section.

§ 1.243–5 Effect of election.

(a) *General*—(1) *Corporations subject to restrictions and limitations.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then each corporation (including the common parent corporation) which is a member of such group on each day of its matching taxable year shall be subject to the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section for such taxable year. For purposes of this section, the term "matching taxable year" shall mean the taxable year of each member (including the common parent corporation) of an affiliated group which includes the last day of a particular taxable year of the common parent corporation for which an election by the affiliated group under section 243(b)(2) is effective. If a corporation is a member of an affiliated group on each day of a short taxable year which does not include the last day of a taxable year of the common parent corporation, and if an election under section 243(b)(2) is effective for such short year, see paragraph (g) of this section. In the case of taxable years beginning in 1963 and ending in 1964 for which an election under section 243(b)(2) is effective under paragraph (c)(4)(ii) of § 1.243–4, see paragraph (f)(9) of this section.

(2) *Members filing consolidated returns.* The restrictions and limitations prescribed by this section shall apply notwithstanding the fact that some of the corporations which are members of the electing affiliated group (within the meaning of section 243(b)(5)) join in the filing of a consolidated return. Thus, for example, if an electing affiliated group includes one or more corporations taxable under section 11 of the Code and two or more insurance companies taxable under section 802 of the Code, and if the insurance companies join in the filing of a consolidated return, the amount of such companies' exemptions from estimated tax (for purposes of sections 6016 and 6655) shall be the amounts determined under paragraph (d)(5) of this section and not the amounts determined pursuant to the regulations under section 1502.

(b) *Multiple surtax exemption election*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then no corporation which is a member of such affiliated group on each day of its matching taxable year may consent (or shall be deemed to consent) to an election under section 1562(a)(1), relating to election of multiple surtax exemptions, which would be effective for such matching taxable year. Thus, each corporation which is a component member of the controlled group of corporations with respect to its matching taxable year (determined by applying section 1563(b) without regard to paragraph (2)(D) thereof) shall determine its surtax exemption for such taxable year in accordance with section 1561 and the regulations thereunder.

(2) *Special rule for certain insurance companies.* Under section 243(b)(6)(A), if the provisions of subparagraph (1) of this paragraph apply with respect to the taxable year of an insurance company subject to taxation under section 802 or 821, then the surtax exemption of such insurance company for such taxable year shall be determined by applying part II (section 1561 and following), subchapter B, chapter 6 of the Code, with respect to such insurance company and the other corporations which are component members of the controlled group of corporations (as determined under section 1563 without regard to subsections (a)(4) and (b)(2)(D) thereof) of which such insurance company is a member, without regard to section 1563(a)(4) (relating to certain insurance companies treated as a separate controlled group) and section 1563(b)(2)(D) (relating to certain insurance companies treated as excluded members).

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Throughout 1965 corporation M owns all the stock of corporations L–1, L–2, S–1, and S–2. M is a domestic mutual insurance company subject to tax under section 821 of the Code, L–1 and L–2 are domestic life insurance companies subject to tax under section 802 of the Code, and S–1 and S–2 are domestic corporations subject to tax under section 11 of the Code. Each corporation uses the calendar year as its taxable year. M makes a valid election under section 243(b)(2) for the affiliated group consisting of M, L–1, L–2, S–1, and S–2. If part II, subchapter B, chapter 6 of the Code were applied with respect to the 1965 taxable years of the corporations without regard to section 243(b)(6)(A), the following would result: S–1 and S–2 would be treated as component members of a controlled group of corporations on such date; L–1 and L–2 would be treated as component members of a separate controlled group on such date; and M would be treated as an excluded member. However, since section 243(b)(6)(A) requires that part II of subchapter B be applied without regard to section 1563(a)(4) and (b)(2)(D), for purposes of determining the surtax exemptions of M, L–1, L–2, S–1, and S–2 for their 1965 taxable years, such corporations are treated for purposes of such part II as component members of a single controlled group of corporations on December 31, 1965. Moreover, by reason of having made the election under section 243(b)(2), M, L–1, L–2, S–1, and S–2 cannot consent to multiple surtax exemption elections under section 1562 which would be effective for their 1965 taxable years. Thus, such corporations are limited to a single $25,000 surtax exemption for such taxable years (to be apportioned among such corporations in accordance with section 1561 and the regulations thereunder).

(c) *Foreign tax credit*—(1) *General.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then—

(i) The credit under section 901 for taxes paid or accrued to any foreign country or possession of the United States shall be allowed to a corporation which is a member of such affiliated group for each day of its matching taxable year only if each other corporation which pays or accrues such foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, does not deduct such taxes in computing its tax liability for its matching taxable year, and

(ii) A corporation which is a member of such affiliated group on each day of its matching taxable year may use the overall limitation provided in section 904(a)(2) for such matching taxable year only if each other corporation which pays or accrues foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, uses such limitation for its matching taxable year.

(2) *Consent of the Commissioner.* In the absence of unusual circumstances, a request by a corporation for the consent of the Commissioner to the revocation of an election of the overall limitation, or to a new election of the overall limitation, for the purpose of satisfying the requirements of subparagraph (1)(ii) of this paragraph will be given favorable consideration, notwithstanding the fact that there has been no change in the basic nature of the corporation's business or changes in conditions in a foreign country which substantially affect the corporation's business. See paragraph (d)(3) of § 1.904–1.

(d) *Other restrictions and limitations*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then, except to the extent that an apportionment plan adopted under paragraph (f) of this section for such taxable year provides otherwise with respect to a restriction or limitation described in this paragraph, the rules provided in subparagraphs (2), (3), (4), and (5) of this paragraph shall apply to each corporation which is a member of such affiliated group on each day of its matching taxable year for the purpose of computing the amount of such restriction or limitation for its matching taxable year. For purposes of this paragraph, each corporation which is a member of an electing affiliated group (including any member which joins in filing a consolidated return) shall be treated as a separate corporation for purposes of determining the amount of such restrictions and limitations.

(2) *Accumulated earnings credit*—(i) *Computation of amount.* The minimum accumulated earnings credit computed under section 535(c)(2) (or, in the case of a mere holding or investment company, the accumulated earnings credit provided by section 535(c)(3)) allowable to each corporation which is a member of such affiliated group on each day of its matching taxable year, shall be an

amount equal to (*a*) the amount (if any) by which $100,000 exceeds the aggregate of the accumulated earnings and profits of such members as of the close of their preceding taxable years, divided by (*b*) the number of such members.

(ii) *Apportionment plan not allowed.* An affiliated group may not adopt an apportionment plan, as provided in paragraph (f) of this section, with respect to the amount described in subdivision (i) (*a*) of this subparagraph.

(3) *Mine exploration expenditures*—(i) *Limitation under section 615(a).* If the aggregate of the expenditures to which section 615(a) applies, which are paid or incurred by corporations which are members of the affiliated group on each day of their matching taxable years (during such taxable years) exceeds $100,000, then the deduction (or amount deferrable) under section 615 for any such member for its matching taxable year shall be limited to an amount equal to the amount which bears the same ratio to $100,000 as the amount deductible or deferrable by such member under section 615 (computed without regard to this subdivision) bears to the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members.

(ii) *Limitation under section 615(c).* If the aggregate of the expenditures to which section 615(a) applies which are paid or incurred by the corporations which are members of such affiliated group on each day of their matching taxable years (during such taxable years) would, when added to the aggregate of the amounts deducted or deferred in prior taxable years which are taken into account by such corporations in applying the limitation of section 615(c), exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by any such member to the extent such expenditure would exceed the amount which bears the same ratio to (*a*) the amount, if any, by which $400,000 exceeds the amounts so deducted or deferred in prior years, as (*b*) such member's deduction (or amount deferrable) under section 615 (computed without regard to this subdivision) for such expenditures paid or incurred by such member during its matching taxable year, bears to (*c*) the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members during their matching taxable years.

(iii) *Treatment of corporations filing consolidated returns.* For purposes of making the computations under subdivisions (i) and (ii) of this subparagraph, a corporation which joins in the filing of a consolidated return shall be treated as if it filed a separate return.

(iv) *Estimate of exploration expenditures.* If, on the date a corporation (which is a member of an affiliated group on each day of its matching taxable year) files its income tax return for such taxable year, it cannot be determined whether or not the $100,000 limitation prescribed by subdivision (i) of this subparagraph, or the $400,000 limitation prescribed by subdivision (ii) of this subparagraph, will apply with respect to such taxable year, then such member shall, for purposes of such return, apply the provisions of such subdivisions (i) and (ii) with respect to such taxable year on the basis of an estimate of the aggregate of the exploration expenditures by all such members of the affiliated group for their matching taxable years. Such estimate shall be made on the basis of the facts and circumstances known at the time of such estimate. If an estimate is used by any such member of the affiliated group pursuant to this subdivision, and if the actual expenditures by all such members differ from the estimate, then each such member shall file as soon as possible an original or amended return reflecting an amended apportionment (either pursuant to an apportionment plan adopted under paragraph (f) of this section or pursuant to the application of the rule provided by subdivision (i) or (ii) of this subparagraph) based upon such actual expenditures.

(v) *Amount apportioned under apportionment plan.* If an electing affiliated group adopts an apportionment plan as provided in paragraph (f) of this section with respect to the limitation under section 615(a) or 615(c), then the amount apportioned under such plan to any corporation which is a member of such group may not exceed the amount which such member could have deducted (or deferred) under section 615 had such affiliated group not filed an election under section 243(b)(2).

(4) *Small business deductions of life insurance companies.* In the case of a life insurance company taxable under section 802 which is a member of such affiliated group on each day of its matching taxable year, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to $25,000 divided by the number of life insurance companies taxable under section 802 which are members of such group on each day of their matching taxable years.

(5) *Estimated tax*—(i) *Exemption from estimated tax.* Except as otherwise provided in subdivision (ii) of this subparagraph, the exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) of each corporation which is a member of such affiliated group on each day of its matching taxable year shall be (in lieu of the $100,000 amount specified in section 6016 (a) and (b)(2)(A) and in section 6655 (d)(1) and (e)(2)(A)) an amount equal to $100,000 divided by the number of such members.

(ii) *Nonapplication to certain taxable years beginning in 1963 and ending in 1964.* For purposes of this section, if a corporation has a taxable year beginning in 1963 and ending in 1964 the last day of the eighth month of which falls on or before April 10, 1964, then (notwithstanding the fact that an election under section 243(b)(2) is effective for such taxable year) subdivision (i) of this subparagraph shall not apply to such corporation for such taxable year. Thus, such corporation shall be entitled to a $100,000 exemption from estimated tax for such taxable year. Also, with respect to a taxable year described in the first sentence of this subdivision, any such corporation shall not be considered to be a member of the affiliated group for purposes of determining the number of members referred to in subdivision (i) of this subparagraph.

(iii) *Examples.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Corporation P owns all the stock of corporation S–1 on each day of 1965. On March 1, 1965, P acquires all the stock of corporation S–2. Corporations P, S–1, and S–2 file separate returns on a calendar year basis. On March 31, 1965, the affiliated group consisting of P, S–1, and S–2 anticipates making an election under section 243(b)(2) for P's 1965 taxable year. If the affiliated group does make a valid election under section 243(b)(2) for P's 1965 year, under subdivision (i) of this subparagraph the exemption from estimated tax of P for 1965, and the exemption from estimated tax of S–1 for 1965, will be (assuming an apportionment plan is not filed pursuant to paragraph (f) of this section) an amount equal to $50,000 ($100,000÷2). (Since S–2 is not a member of the affiliated group on each day of 1965, S–2's exemption from estimated tax will be determined for the year 1965 without regard to subdivision (i) of this subparagraph, whether or not the affiliated group makes the election under section 243(b)(2).) P and S–1 file declarations of estimated tax on April 15, 1965, on such basis and make payments with respect to such declarations on such basis. Thus, if the affiliated group does make a valid election under section 243(b)(2) for P's 1965 year, P and S–1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (2). Assume the same facts as in example (1), except that, on March 31, 1965, S–1 anticipates that it will incur a loss for its 1965 year. Accordingly, in anticipation of making an election under section 243(b)(2) for P's 1965 year and adopting an apportionment plan under paragraph (*f*) of this section, P computes its estimated tax liability for 1965 on the basis of a $100,000 exemption, and S–1 computes its estimated tax liability for 1965 on the basis of a zero exemption. Assume S–1 incurs a loss for 1965 as anticipated. Thus, if P does make the election for 1965, and an apportionment plan is adopted apportioning $100,000 to P and zero to S–1 (for their 1965 years), P and S–1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (3). Assume the same facts as in example (1), except that P and S–1 file declarations of estimated tax on April 15, 1965, on the basis of separate $100,000 exemptions from estimated tax for their 1965 years, and make payments with respect to such declarations on such basis. Assume that the affiliated group makes an election under section 243(b)(2) for P's 1965 year. Under subdivision (i) of this subparagraph, P and S–1 are limited in the aggregate to a single $100,000 exemption from estimated tax for their 1965 years. The provisions of section 6655 will be applied to the 1965 year of P and the 1965 year of S–1 on the basis of a $50,000 exemption from estimated tax for each corporation, unless a different apportionment of the $100,000 amount is adopted under paragraph (*f*) of this section. Since

the election was made under section 243(b)(2), regardless of whether or not the affiliated group anticipated making the election, P or S–1 (or both) may incur additions to tax under section 6655 for failure to pay estimated tax.

(e) *Effect of election for certain taxable years beginning in 1963 and ending in 1964.* If an election under section 243(b)(2) by an affiliated group is effective for a taxable year of a corporation under paragraph (c)(4)(ii) of § 1.243–4 (relating to election for certain taxable years beginning in 1963 and ending in 1964), and if such corporation is a member of such group on each day of such taxable year, then the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section shall apply to all such members having such taxable years (for such taxable years). For purposes of this paragraph, such paragraphs shall be applied with respect to such taxable years as if such taxable years included the last day of a taxable year of the common parent corporation for which an election was effective under section 243(b)(2), *i.e.*, as if such taxable years were matching taxable years. For apportionment plans with respect to such taxable years, see paragraph (f)(9) of this section.

(f) *Apportionment plans*—(1) *In general.* In the case of corporations which are members of an affiliated group of corporations on each day of their matching taxable years—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(*a*) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax), may be apportioned among such members (for such taxable years) if the common parent corporation files an apportionment plan with respect to such taxable years in the manner provided in subparagraph (4) of this paragraph, and if all other members consent to the plan, in the manner provided in subparagraph (5) or (6) of this paragraph (whichever is applicable). The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect to any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(3)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under this subparagraph with respect to exploration expenditures to which section 615 applies.

(2) *Time for adopting plan.* An affiliated group may adopt an apportionment plan with respect to the matching taxable years of its members only if, at the time such plan is sought to be adopted there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against any corporation the tax liability of which would be increased by the adoption of such plan. If there is less than 1 year remaining with respect to any such corporation, the district director with whom such corporation files its income tax return will ordinarily, upon request, enter into an agreement to extend such statutory period for assessment and collection of deficiencies.

(3) *Years for which effective.* A valid apportionment plan with respect to matching taxable years of members of an affiliated group shall be effective for such matching taxable years, and for all succeeding matching taxable years of such members, unless the plan is amended in accordance with subparagraph (8) of this paragraph or is terminated. Thus, the apportionment plan (including any amendments thereof) has a continuing effect and need not be renewed annually. An apportionment plan with respect to a particular taxable year of the common parent shall terminate with respect to the taxable years of the members of the affiliated group which include the last day of a succeeding taxable year of the common parent if—

(i) Any corporation which was a member of the affiliated group on each day of its matching taxable year which included the last day of the particular taxable year of the common parent is not a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent, or

(ii) Any corporation which was not a member of such group on each day of its taxable year which included the last day of the particular taxable year of the common parent is a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent.

An apportionment plan, once terminated, is no longer effective. Accordingly, unless a new apportionment plan is filed and consented to (or the section 243(b)(2) election is terminated) the amounts referred to in subparagraph (1) of this paragraph will be apportioned among the corporations which are members of the affiliated group on each day of their matching taxable years in accordance with the rules provided in paragraphs (d)(3)(i), (d)(3)(ii), (d)(4), and (d)(5)(i) of this section.

(4) *Filing of plan.* The apportionment plan shall be in the form of a statement filed by the common parent corporation with the district director with whom the common parent files its income tax returns. The statement shall be signed by any person who is duly authorized to act on behalf of the common parent corporation and shall set forth the name, address, internal revenue district, taxpayer account number, and taxable year of each member to whom the common parent could apportion an amount under subparagraph (1) of this paragraph (or, in the case of an apportionment plan referred to in subparagraph (9) of this paragraph, each member to whom the common parent could apportion an amount under such subparagraph) and the amount (or amounts) apportioned to each such member under the plan.

(5) *Consent of wholly owned subsidiaries.* If all the stock of a corporation which is a member of the affiliated group on each day of its matching taxable year is owned on each such day by another corporation (or corporations) which is a member of such group on each day of its matching taxable year, such corporation (hereinafter in this paragraph referred to as a "wholly owned subsidiary") shall be deemed to consent to the apportionment plan. Each wholly owned subsidiary should attach a copy of the plan filed by the common parent corporation to an income tax return, amended return, or claim for refund for its matching taxable year.

(6) *Consent of other members.* The consent of each member (other than the common parent corporation and wholly owned subsidiaries) to an apportionment plan shall be in the form of a statement, signed by any person who is duly authorized to act on behalf of the member consenting to the plan, stating that such member consents to the plan. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the apportionment plan filed by the common parent corporation. The consent of any such member which, after the date the appportionment plan was filed and during its matching taxable year referred to in subparagraph (1) of this paragraph, ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the district director with whom the apportionment plan is filed (as soon as possible after it ceases to be a wholly owned subsidiary). Each consenting member should attach a copy of the apportionment plan filed by the common parent to an income tax return, amended return, or claim for refund for its matching taxable year which includes the last day of the taxable year of the common parent corporation for which the apportionment plan was filed.

(7) *Members of group filing consolidated return*—(i) *General rule.* Except as provided in subdivision (ii) of this subparagraph, if the members of an affiliated group of corporations include one or more corporations taxable under section 11 of the Code and one or more insurance companies taxable under section 802 or 821 of the Code and if the affiliated group includes corporations which join in the filing of a consolidated return, then, for purposes of determining the amount to be apportioned to a corporation under an apportionment plan adopted under this paragraph, the corporations filing the consolidated return shall be treated as a single member.

(ii) *Consenting to an apportionment plan.* For purposes of consenting to an apportionment plan under subparagraphs (5) and (6) of this paragraph, if the members of an affiliated group of corporations include corporations which join in the filing of a consolidated return, each corporation which joins in filing the consolidated return shall be treated as a separate member.

(8) *Amendment of plan.* An apportionment plan, which is effective for the matching taxable years of members of an affiliated group, may be amended if an amended plan is filed (and consented to) within the time and in accordance with the rules prescribed in this paragraph for the adoption of an original plan with respect to such taxable years.

(9) *Certain taxable years beginning in 1963 and ending in 1964.* In the case of corporations which are members of an affiliated group of corporations on each day of their taxable years referred to in paragraph (e) of this section—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(*a*) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax), may be apportioned among such members (for such taxable years) if an apportionment plan is filed (and consented to) with respect to such taxable years in accordance with the rules provided in subparagraphs (2), (4), (5), (6), (7), and (8) of this paragraph. For purposes of this subparagraph, such subparagraphs shall be applied as if such taxable years included the last day of a taxable year of the common parent corporation, i.e., as if such taxable years were matching taxable years. An apportionment plan adopted under this subparagraph shall be effective only with respect to taxable years referred to in paragraph (e) of this section. The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect of any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(3)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under an apportionment plan described in this subparagraph with respect to exploration expenditures to which section 615 applies.

(g) *Short taxable years*—(1) *General.* If—

(i) The return of a corporation is for a short period (ending after December 31, 1963) on each day of which such corporation is a member of an affiliated group,

(ii) The last day of the common parent's taxable year does not end with or within such short period, and

(iii) An election under section 243(b)(2) by such group is effective under paragraph (c)(4)(i) of § 1.243–4 for the taxable year of the common parent within which falls such short period,

then the restrictions and limitations prescribed by section 243(b)(3) shall be applied in the manner provided in subparagraph (2) of this paragraph.

(2) *Manner of applying restrictions.* In the case of a corporation described in subparagraph (1) of this paragraph having a short period described in such subparagraph—

(i) Such corporation may not consent to an election under section 1562, relating to election of multiple surtax exemptions, which would be effective for such short period;

(ii) The credit under section 901 shall be allowed to such corporation for such short period if, and only if, each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, does not deduct such taxes in computing its tax liability for its taxable year which includes such last day;

(iii) The overall limitation provided in section 904(a)(2) shall be allowed to such corporation for such short period if, and only if each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, uses such limitation for its taxable year which includes such last day;

(iv) The minimum accumulated earnings credit provided by section 535(c)(2) (or in the case of a mere holding or investment company, the accumulated earnings credit provided by section 535(c)(3)) allowable for such short period shall be the amount computed by dividing (*a*) the amount (if any) by which $100,000 exceeds the aggregate of the accumulated earnings and profits of the corporations, which are members of the affiliated group on the last day of such short period, as of the close of their taxable years preceding the taxable year which includes the last day of such short period, by (*b*) the number of such members on the last day of such short period;

(v) The deduction allowable under section 615(a) for such short period shall be limited to an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period;

(vi) If the expenditures to which section 615(a) applies which are paid or incurred by such corporation during such short period would, when added to the aggregate of the amounts deducted or deferred (in taxable years ending before the last day of such short period) which are taken into account in applying the limitation of section 615(c) by corporations which are members of the affiliated group on the last day of such short period exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by such corporation to the extent such expenditure would exceed an amount equal to (*a*) the amount (if any) by which $400,000 exceeds the aggregate of the amounts so deducted or deferred in such taxable years (computed as if each member filed a separate return), divided by (*b*) the number of corporations in the group which have taxable years ending on such last day;

(vii) If such corporation is a life insurance company taxable under section 802, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to (*a*) $25,000, divided by (*b*) the number of life insurance companies taxable under section 802 which are members of the affiliated group on the last day of such short period; and

(viii) The exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) for such short period shall be an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period.

PAR. 4. Section 1.244 is amended by revising section 244 and adding a historical note, as follows:

§ 1.244 Statutory provisions; dividends received on certain preferred stock.

SEC. 244. *Dividends received on certain preferred stock*—(a) *General rule.* In the case of a corporation, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount received as dividends on the preferred stock of a public utility which is subject to taxation under this chapter and with respect to which the deduction provided in section 247 for dividends paid is allowable.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) The numerator of which is 14 percent, and

(B) The denominator of which is that percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

(3) Finally ascertain the amount which is 85 percent of the excess of—

(A) The amount determined under paragraph (1), over

(B) The amount determined under paragraph (2).

(b) *Exception.* If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1), but determined without regard to section 243(c)(4))—

(1) Subsection (a) shall be applied separately to such qualifying dividends, and

(2) For purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 100 percent in lieu of 85 percent.

[Sec. 244 as amended by sec. 214(b)(1), Rev. Act 1964 (78 Stat. 55)]

PAR. 5. Section 1.244–2 is amended to read as follows:

§ 1.244–2 Computation of deduction.

(a) *General rule.* Section 244(a) provides a formula for the computation of the deduction for dividends received on the preferred stock of a public utility. For purposes of this computation, the normal tax rate referred to in section 244(a)(2)(B) shall be determined without regard to any additional tax imposed by section 1562(b). See section 1562(b)(4). The deduction computed under section 244(a) is subject to the limitation provided in section 246.

(b) *Qualifying dividends.* Section 244(b) provides that in the case of dividends received on the preferred stock of a public utility in taxable years ending after December 31, 1963, which are "qualifying dividends" (as defined in section 243(b)(1), but determined without regard to section 243(c)(4)), the computation of the deduction for dividends received shall be made by applying the formula provided by section 244(a) separately to such qualifying dividends. For such purposes, 100 percent shall be used in lieu of the 85 percent specified in section 244(a)(3).

(c) *Examples.* The computation of the deduction provided in section 244 may be illustrated by the following examples:

Example (1). Corporation X, which files its income tax returns on the calendar year basis, received in 1965 $100,000 as dividends on the preferred stock of corporation Y, a public utility corporation which is subject to taxation under chapter 1 of the Code. The deduction provided in section 247 is allowable to Y, the distributing corporation, with respect to these dividends and they are not "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The corporation normal tax rate and the surtax rate for the calendar year 1965 are 22 percent and 26 percent, respectively. The deduction allowable to X under section 244(a) for the year 1965 with respect to these dividends is $60,208.33, computed as follows:

Dividends received on preferred stock of corporation Y	$100,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $100,000	29,166.67
Amount subject to 85-percent deduction	70,833.33
Deduction—85 percent of $70,833.33	60,208.33

The result would be the same if X or Y (or both) were subject to the 6-percent additional tax imposed by section 1562(b) for 1965.

Example (2). Assume the same facts as in example (1) and also assume that in 1965 corporation X received $200,000 as dividends on the preferred stock of Corporation Z, a public utility corporation which is subject to taxation under chapter 1 of the Code. Assume further that such dividends are "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The deduction provided in section 247 is allowable to Z, the distributing corporation, with respect to these dividends. The deduction allowable to X under section 244 for the year 1965 is $205,875, computed as follows:

Deduction allowable under section 244(a) with respect to the dividend received from Y (see example (1))	$60,208.33
Deduction allowable under section 244(b) with respect to the dividend received from Z: Qualifying dividends received on preferred stock of corporation	200,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $200,000	58,333.33
Deduction	141,666.67
Deduction allowable under section 244 for 1965	201,875.00

PAR. 6. Section 1.246 is amended by revising section 246(b) and the historical note to read as follows:

§ 1.246 Statutory provisions; rules applying to deductions for dividends received.

SEC. 246. *Rules applying to deductions for dividends received.* * * *

(b) *Limitation on aggregate amount of deductions*—(1) *General rule.* Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243(a)(1), 244(a), 245, and 247.

(2) *Effect of net operating loss.* Paragraph (1) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

* * * * *

[Sec. 246 as amended by sec. 18 and sec. 57(c)(2), Technical Amendments Act 1958 (72 Stat. 1614, 1646); sec. 214(b)(2), Rev. Act 1964 (78 Stat. 55)]

PAR. 7. Section 1.246–2 is amended by striking out the references to sections 243(a) and 244 and by substituting references to sections 243(a)(1) and 244(a). The amended provision reads as follows:

§ 1.246–2 Limitation on aggregate amount of deductions.

(a) *General rule.* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations), except as provided in section 246(b)(2) and in paragraph (b) of this section, is limited to 85 percent of the taxable income of the corporation. The taxable income of the corporation for this purpose is computed without regard to the net operating loss deduction allowed by section 172, the deduction for dividends paid on certain preferred stock of public utilities allowed by section 247, and the deductions provided in sections 243(a)(1), 244(a), and 245. For definition of the term "taxable income," see section 63.

(b) *Effect of net operating loss.* If the shareholder corporation has a net operating loss (as determined under sec. 172) for a taxable year, the limitation provided in section 246(b)(1) and in paragraph (a) of this section is not applicable for such taxable year. In that event, the deductions provided in sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the shareholder corporation for such taxable year without regard to such limitation. If the shareholder corporation does not have a net operating loss for the taxable year, however, the limitation will be applicable for all tax purposes for such taxable year. In determining whether the shareholder corporation has a net operating loss for a taxable year under section 172, the deductions allowed by sections 243(a)(1), 244(a), and 245 are to be computed without regard to the limitation provided in section 246(b)(1) and in paragraph (a) of this section.

PAR. 8. Section 1.535–3 is amended by revising the second sentence of paragraph (b)(2) and by adding a new sentence at the end of paragraph (c). These revised and added provisions read as follows:

§ 1.535–3 Accumulated earnings credit.

* * * * *

(b) *Corporation which is not a mere holding or investment company.* * * *

(2) *Minimum credit.* Section 535(c)(2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. Except as otherwise provided in section 243(b)(3) and § 1.243–5 (relating to effect of 100-percent dividends received deduction under sec. 243(b)), in the case of such a corporation, this minimum credit shall in no case be less than the amount by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535(c)(2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), the credit, if any is determined without regard to section 535(c)(2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537–1, 1.537–2, and 1.537–3.

* * * * *

(c) *Holding and investment companies.* Section 535(c)(3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $100,000 ($60,000 if the credit is

computed for a taxable year beginning before January 1, 1958), exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing the accumulated taxable income. See paragraph (c) of § 1.533–1 for a definition of a holding or investment company. For the accumulated earnings credit of a mere holding or investment company which is a member of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5.

* * * * *

PAR. 9. Section 1.615–1 is amended by adding a new sentence at the end of paragraph (a). This amended provision reads as follows:

§ 1.615–1 Exploration expenditures.

(a) *General rule.* Section 615 prescribes rules for the treatment of expenditures for ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than oil or gas) paid or incurred by the taxpayer before the beginning of the development stage of the mine or other natural deposit. The development stage of the mine or other natural deposit will be deemed to begin at the time when, in consideration of all the facts and circumstances (including the actions of the taxpayer), deposits of ore or other mineral are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Such expenditures hereinafter in the regulations under section 615 will be referred to as exploration expenditures. Under section 615(a), a taxpayer may, at his option, deduct exploration expenditures paid or incurred in an amount not to exceed $100,000 for any taxable year. Under section 615(b) and § 1.615–2 he may elect to defer any part of such amount and deduct such part on a ratable basis as the units of produced minerals benefited by such expenditures are sold. In any taxable year in which the taxpayer does not treat exploration expenditures under either of these methods, they will be charged to depletable capital account. The option to deduct under section 615(a), and the election to defer under section 615(b), however, are subject to the limitation provided in section 615(c) and § 1.615–4. In the case of certain corporations which are members of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5 for limitations on the option to deduct under section 615(a) and the election to defer under section 615(b).

* * * * *

PAR. 10. Section 1.804 is amended by revising section 804(a)(5) and the historical note to read as follows:

§ 1.804 Statutory provisions; life insurance companies; taxable investment income.

SEC. 804. *Taxable investment income*—(a) *In general.* * * *

(5) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of this subsection, the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the taxable investment income computed without regard to the deductions allowed by such sections.

[Sec. 804 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 41); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 115); sec. 3, Act of October 23, 1962 (Public Law 87–858, 76 Stat. 1134); sec. 214(b)(3), Rev. Act 1964 (78 Stat. 55)]

PAR. 11. Section 1.804–1 is amended to read as follows:

§ 1.804–1 Taxable years affected.

Sections 1.804–2 through 1.804–4 (other than paragraph (d)(1)(ii) of § 1.804–2) are applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112). Paragraph (d)(1)(ii) of § 1.804–2 is applicable only to taxable years beginning after December 31, 1961, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), section 3 of the Act of October 23, 1962 (Public Law 87–858, 76 Stat. 1134), and section 214(b)(3) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 12. Section 1.804–2 is amended by revising subparagraph (2)(ii) of paragraph (d). This revised provision reads as follows:

§ 1.804–2 Taxable investment income.

* * * * *

(d) *Taxable investment income of a life insurance company.* * * *

(2) *Modifications.* * * *

(ii) *Application of section 246(b).* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244 (a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the taxable investment income (as defined in subparagraph (1) of this paragraph). The taxable investment income of the company for this purpose shall be computed without regard to the deductions provided in sections 243(a)(1), 244(a), and 245.

* * * * *

PAR. 13. Section 1.809 is amended by revising section 809(d)(8)(B) and the historical note to read as follows:

§ 1.809 Statutory provisions; life insurance companies; in general.

SEC. 809. *In general.* * * *

(d) *Deductions.* * * *

(8) *Tax-exempt interest, dividends, etc.* * * *

(B) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the gain from operations computed without regard to—

(i) The deductions provided by paragraphs (3), (5), and (6) of this subsection,

(ii) The operations loss deduction provided by section 812, and

(iii) The deductions allowed by sections 243(a)(1), 244(a), and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

[Sec. 809 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 121): amended by sec. 2, Act of June 27, 1961 (Public Law 87–59, 75 Stat. 120); sec. 3, Act of October 10, 1962 (Public Law 87–790, 76 Stat. 808); sec. 3, Act of October 23, 1962 (Public Law 87–858, 76 Stat. 1134); sec. 214(b)(4), Rev. Act 1964 (78 Stat. 55)]

PAR. 14. Section 1.809–1 is amended to read as follows:

§ 1.809–1 Taxable years affected.

Sections 1.809 through 1.809–8, except as otherwise provided therein, are applicable only to taxable years beginning after December 31, 1957, and all reference to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), the Act of June 27, 1961 (75 Stat. 120), the Act of October 10, 1962 (76 Stat. 808); the Act of October 23, 1962 (76 Stat. 1134), and section 214(b)(4) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 15. Paragraph (a)(8)(ii) of § 1.809–5 is revised to read as follows:

§ 1.809–5 Deductions.

(a) *Deductions allowed.* * * *

(8) *Tax-exempt interests, dividends, etc.* * * *

(ii) The modification contained in section 809(d)(8)(B) provides the method for applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of section 809(d)(8)(A)(iii) and subdivision (i)(c) of this subparagraph. Under this method, the sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain perferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the gain from operations computed without regard to:

(*a*) The deductions provided by section 809(d)(3), (5), and (6);

(b) The operations loss deductions provided by section 812; and

(c) The deductions allowed by sections 243(a)(1), 244(a), and 245.

If a life insurance company has a loss from operations (as determined under sec. 812) for the taxable year, the limitation provided in section 809(d)(8)(B) and this subdivision shall not be applicable for such taxable year. In that event, the deductions provided by sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the life insurance company for such taxable year without regard to such limitation. If the life insurance company does not have a loss from operations for the taxable year, however, the limitation shall be applicable for all tax purposes for such taxable year. In determining whether a life insurance company has a loss from operations for the taxable year under section 812, the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be computed without regard to the limitation provided in section 809(d)(8)(B) and this subdivision.

* * * * *

[F.R. Doc. 67-12867; Filed, Nov. 1, 1967; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Proposed Limitation of Shipments Regulation

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in designated counties in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

§ 959.308 Limitation of shipments.

During the period beginning March 1, 1968, through June 15, 1968, no handler may package or load onions on Sundays, or handle any lot of onions grown in the production area, except red onions, unless such onions meet the grade requirements of paragraph (a) of this section, one of the applicable size requirements of paragraph (b) of this section, the container requirements of paragraph (c) of this section, and the inspection requirements of paragraph (f) of this section, or unless such onions are handled in accordance with the provisions of paragraphs (d) or (e) of this section.

(a) *Minimum grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) 2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(c) *Container requirements.* (1) 25-pound bags, with not to exceed in any lot an average net weight of 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with not to exceed in any lot an average net weight of 55 pounds per bag, and with outside dimensions not larger than 33 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal Agencies.

(d) *Minimum quantity exemption.* Any handler may handle, only as individual shipments and other than for resale, not more than 100 pounds of onions per day, in the aggregate, without regard to the requirements of this section or to the inspection and assessment requirements of this part.

(e) *Special purpose shipments and culls*—(1) *Experimental shipments.* Onions may be handled for experimental purposes as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a certificate of privilege to make such shipments.

(ii) After obtaining an approved certificate of privilledge, each handler may handle onions packed in 3- or 5-pound consumer size containers, or 50-pound cartons, if they meet the grade and size requirements of paragraphs (a) and (b) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided,* That shipments of 3- and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight of master containers per lot, as computed by multiplying the number of packages therein by their weight classification, plus the weight of the master container, may not exceed 15 percent over the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(2) *Reporting requirements for experimental shipments.* Each handler who handles such experimental shipments of onions shall report thereon to the committee on forms and at such times as the committee prescribes, as follows:

(i) The number of the inspection certificate showing the grade and size of onions so packed and the size container in which such onions were handled.

(ii) Prices received for each such shipment on a f.o.b. basis and prices paid to growers of such onions.

(iii) Any adjustments from the original sales price agreement for such onions on each shipment, with reasons therefor, and the final net prices paid to the grower of such onions.

(iv) Such other incidental and related information necessary to provide the foregoing data on prices received by growers, as requested by the committee.

(v) The time and location at which such shipment may be reinspected at destination.

Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner or form and in such time as it may prescribe. Also, each handler of experimental shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review, and audit by the committee to verify reports thereon.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and are not exempted under paragraph (d) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126(a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(f) *Inspection.* (1) No handler may handle any onions regulated hereunder (except pursuant to paragraphs (d) or (e)(3) of this section) unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of any shipment of onions by motor vehicle for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purpose of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(g) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Bermuda-Granex-Grano Type Onions §§ 51.3195–51.3209 of this title), or in the U.S. Standards for Grades of Onions (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety.

All terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 30, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–12963; Filed, Nov. 1, 1967; 8:49 a.m.]

[7 CFR Part 1125]

MILK IN PUGET SOUND, WASH., MARKETING AREA

Notice of Proposed Suspension of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provision of the order regulating the handling of milk in the Puget Sound, Wash. marketing area is being considered for the month of October 1967.

The following provision is proposed to be suspended:

In paragraph (b) (2) of § 1125.8 (pool plant provisions) the word "distributing" where it appears in the introductory text of subparagraph (2), immediately preceding subdivision (i). The provision relates to the standards required to qualify a supply plant for pool status.

The suspension would permit the volume of Grade A milk moved from a supply plant to another pool supply plant as well as to a pool distributing plant to be counted for purposes of meeting the shipping requirements of a pool supply plant for October 1967. The order presently provides that at least 50 percent of supply plant's Grade A receipts must be moved to a pool distributing plant during the month if it is to obtain pool plant status.

This suspension has been requested by the United Dairymen's Association, the major cooperative association on the market, to insure the pool supply plant status of its plant located at Ellensburg, Wash., for the month of October 1967. The cooperative association contends that without the suspension, pool status for the Ellensburg plant cannot be assured for such month since substantial quantities of milk were shipped to other pool supply plants. They state that loss of pool plant status would adversely affect the income of the dairy farmers who supply the plant by precluding them from sharing in the pool returns or receiving the base price for any of their milk for the month.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 30, 1967.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 67–12976; Filed, Nov. 1, 1967; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Additional Standards: Mumps Virus Vaccine, Live

Notice is hereby given that the Surgeon General proposes to amend Part 73 of the Public Health Service Regulations by prescribing specific standards of safety, purity, and potency for Mumps Virus Vaccine, Live.

Inquiries may be addressed, and data, views and arguments may be presented by interested parties, in writing, in triplicate, to the Surgeon General, Public Health Service, 9000 Rockville Pike, Bethesda, Md. 20014. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after the date of publication in the FEDERAL REGISTER.

1. Amend Part 73 by adding the following immediately after § 73.155:

§ 73.160 The product.

(a) *Proper name and definition.* The proper name of this product shall be Mumps Virus Vaccine, Live, which shall consist of a preparation of live, attenuated mumps virus.

(b) *Criteria for acceptable strains of attenuated mumps virus.* Strains of attenuated mumps virus used in the manufacture of vaccine shall be identified by (1) historical records including origin and manipulation during attenuation, (2) antigenic specificity as mumps virus as demonstrated by tissue culture neutralization tests. Strains used for the manufacture of Mumps Virus Vaccine, Live, shall have been shown to be safe and potent in at least 5,000 susceptible individuals by field studies with experimental vaccines. Susceptibility shall be shown by the absence of neutralizing or other antibodies against mumps virus, or by other appropriate methods. Seed virus used for vaccine manufacture shall be free of all demonstrable extraneous viable microbial agents.

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated mumps virus used in manufacture of mumps vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 73.165) used by the manufacturer to establish consistency of manufacture of the vaccine, shall be tested in monkeys shown to be serologically negative for mumps virus antibodies by following the procedures in § 73.140(c)(1) or in § 73.162(c).

(2) *Test results.* The mumps virus seed has acceptable neurovirulence properties for use in vaccine manufacture if for each of the five lots (i) 80 percent of the monkeys survive the observation period and (ii) there is no clinical or histopathological evidence of central nervous system involvement attributable to the replication of the virus.

(3) *New seed lots—test for neurovirulence.* The neurovirulence properties of each new seed shall be tested as prescribed in subparagraphs (1) and (2) of this paragraph. Only seed lots which meet the neurovirulence requirement shall be used for mumps vaccine manufacture. The test need not be repeated as long as the same seed lot of virus is used.

§ 73.161 Manufacture of Mumps Virus Vaccine, Live.

(a) *Virus cultures.* Mumps virus shall be propagated in chick embryo cell cultures. The embryonated chicken eggs used as the source of chick embryo tissue for the propagation of mumps virus shall be derived from flocks certified or tested as prescribed in § 73.141(b).

(b) *NIH Reference Mumps Virus.* An NIH Reference Mumps Virus, Live, shall be obtained from the Division of Biologics Standards as a control for correlation of virus titers.

(c) *Passage of virus strain in vaccine manufacture.* Virus in the final vaccine shall represent no more than five cell culture passages beyond the passage used to perform the clinical trials (§ 73.160 (b)) which qualified the manufacturer's vaccine strain for license.

(d) *Cell culture preparation.* Only primary cell cultures shall be used in the manufacture of mumps virus vaccine. Continuous cell lines shall not be introduced or propagated in mumps virus vaccine manufacturing areas.

(e) *Control vessels.* From the tissue used for the preparation of cell cultures for growing attenuated mumps virus, an amount of processed cell suspension equivalent to that used to prepare 500 ml. of cell culture shall be used to prepare uninfected tissue control materials

which shall be prepared and tested by following the procedures prescribed in § 73.141(g).

(f) *Test samples.* Test samples of mumps virus harvests or pools shall be withdrawn and maintained by following the procedures prescribed in § 73.141(h).

§ 73.162 Test for safety.

(a) *Tests prior to clarification.* Prior to clarification, the following tests shall be performed on each mumps virus pool prepared in chick embryo cell culture:

(1) *Inoculation of adult mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a) (1), and the virus pool is satisfactory only if equivalent test results are obtained.

(2) *Inoculation of suckling mice.* The test shall be performed in the volume and following the procedures prescribed in § 73.142(a) (2), and the virus pool is satisfactory only if equivalent test results are obtained.

(3) *Inoculation of monkey cell cultures.* A mumps virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a) (3), and the virus pool is satisfactory only if equivalent test results are obtained.

(4) *Inoculation of other cell cultures.* The mumps virus pool shall be tested for adventitious agents in the volume and following the procedures prescribed in § 73.142(a) (3), in rhesus or cynomolgus monkey kidney, in whole chick embryo and in human cell cultures. In addition, each virus pool shall be tested in chick embryo kidney and in chick embryo liver in the same manner except that the volume tested in each cell culture shall be equivalent to 250 human doses or 25 ml., whichever represents a greater volume. The mumps virus pool is satisfactory only if results equivalent to those in § 73.142 (a) (3) are obtained.

(5) *Inoculation of embryonated chicken eggs.* A neutralized suspension of each undiluted mumps virus pool shall be tested in the volume and following the procedures prescribed in § 73.142(a) (5), and the virus pool is satisfactory only if there is no evidence of adventitious agents.

(6) *Bacteriological tests.* In addition to the tests for sterility required pursuant to § 73.73, bacteriological tests shall be performed on each mumps virus pool for the presence of M. Tuberculosis, both avian and human, by appropriate culture methods. The virus pool is satisfactory only if found negative for M. Tuberculosis, both avian and human.

(7) *Test for avian leucosis.* If the cultures were not derived from a certified source and control fluids were not tested for avian leucosis, the vaccine shall be tested in the volume and following the procedures prescribed in § 73.142(a) (8). The cultures are satisfactory for vaccine manufacture if found negative for avian leucosis.

(b) *Clarification.* The mumps virus fluids shall be clarified by following the procedures prescribed in § 73.142(c).

(c) *Test after clarification—Neurovirulence safety test in monkeys for neurotropic agents.* Before final dilution for standardization for live mumps virus content each lot of mumps vaccine shall be tested for neurotropic agents following the procedures prescribed in § 73.102 (e) except that antibody determinations for mumps need not be performed. The test shall be performed before the product is placed in final containers and prior to the addition of an adjuvant, and symptoms suggestive of any neurotropic agent, rather than those specifically suggestive of poliomyelitis, shall be recorded during the observation period of 17 to 19 days. The lot is satisfactory if the histological and other studies produce no evidence of changes in the central nervous system attributable to the presence of an extraneous neurotropic agent in the vaccine.

§ 73.163 Potency test.

The concentration of live mumps virus shall constitute the measure of potency. The titration shall be performed in a suitable cell culture system, free of wild viruses, using either the Reference Mumps Virus, Live, or a calibrated equivalent strain as a titration control. The concentration of live mumps virus contained in the vaccine of each lot under test shall be no less than the equivalent of 5,000 $TCID_{50}$ of the reference virus per human dose.

§ 73.164 General requirements.

(a) *Final container tests.* In addition to the tests required pursuant to § 73.75, an immunological and virological identity test shall be performed on the final container if it was not performed on each pool or the bulk vaccine prior to filling.

(b) *Dose.* These standards are based on an individual human immunizing dose of no less than 5,000 $TCID_{50}$ of Mumps Virus Vaccine, Live, expressed in terms of the assigned titer of the Reference Mumps Virus, Live.

(c) *Labeling.* In addition to the items required by other applicable labeling provisions of this part, single dose container labeling for vaccine which is not protected against photochemical deterioration shall include a statement cautioning against exposure to sunlight.

(d) *Dried vaccine.* Mumps Virus Vaccine, Live, may be dried immediately after completion of processing to final bulk material and stored in the dried state provided its residual moisture and other volatile substances content is not in excess of 2 percent when tested as prescribed in § 73.74(a).

(e) *Photochemical deterioration; protection.* Mumps Virus Vaccine, Live, in multiple dose containers, shall be protected against photochemical deterioration in accordance with the procedures prescribed in § 73.144(g).

(f) *Samples and protocols.* For each lot of vaccine, the following materials shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014:

(1) A protocol which consists of a summary of the history of manufacture of each lot including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

(2) A total of no less than a 500 ml. sample of bulk vaccine or an equivalent sample prior to addition of any preservative, stabilizer or adjuvant, in the frozen state (—60° C.) prior to filling into final containers.

(3) A total of no less than 200 recommended human doses of the vaccine in final labeled containers.

§ 73.165 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Mumps Virus Vaccine, Live, shall be determined by clinical trials that follow the procedures prescribed in § 73.145 except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of mumps susceptible individuals, each having received the parenteral administration of a virus vaccine dose which is not greater than that which was demonstrated to be safe in field studies (§ 73.160(b)) when used under comparable conditions.

§ 73.166 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Mumps Virus Vaccine, Live, shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the vaccine that are equal to or greater than the assurances provided by such standards, and the Surgeon General so finds and makes such finding a matter of official record.

2. Amend § 73.86 by inserting after the listing for "Mumps Vaccine" the following:

Mumps Virus Vaccine, Live.	One year. Section 73.84 does not apply.

3. Add the following to the Table of Contents immediately after "73.155 Equivalent Methods":

ADDITIONAL STANDARDS: MUMPS VIRUS VACCINE, LIVE

Sec.
73.160 The product.
73.161 Manufacture of Mumps Virus Vaccine, Live.
73.162 Test for safety.
73.163 Potency test.
73.164 General requirements.
73.165 Clinical trials to qualify for license.
73.166 Equivalent methods.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 351, 58 Stat. 702; 42 U.S.C. 262)

Dated: October 16, 1967.

[SEAL] LEO J. GEHRIG,
Acting Surgeon General.

Approved: October 26, 1967.

WILBUR J. COHEN
Acting Secretary

[F.R. Doc. 67-12968; Filed, Nov. 1, 1967; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 89, 91, 93]

[Docket No. 17703]

USE OF CERTAIN CHANNELS AND AVAILABILITY OF CERTAIN FREQUENCIES

Order Extending Time for Filing Comments

In the matter of amendment of the rules in Parts 2, 89, 91, and 93 concerning the use of "tertiary," or 15 kc/s channels, in the 150–162 Mc/s band; amendment of Part 89 to designate frequency 153.740 Mc/s as available to the Local Government Radio Service; Docket No. 17703, RM–525, RM–811, RM–867.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a request filed by the National Committee for Utilities Radio (NCUR) for extension of time for filing comments in the above-captioned matter from October 18, 1967, until November 15, 1967.

2. In support of its request, NCUR states that in order to develop meaningful operating and technical guidelines for the shared use of certain tertiary frequencies between the Petroleum, Power, and Forest Products Radio Services as proposed in Docket 17703, a meeting has been arranged for Tuesday, October 24, 1967, among the frequency coordinators representing each of the services involved. Therefore, in order to afford NCUR and representatives of the other services sufficient time to incorporate the results of the October 24 meeting into their comments and circulate them for approval among their respective memberships, NCUR requests that the filing date be postponed.

3. It appears that the additional time requested by NCUR would not unduly delay this proceeding and that the comments would be useful to the Commission in resolving the issues in this proceeding.

4. In view of the foregoing: *It is ordered,* Pursuant to §§ 0.331(b)(4) and 1.46 of the Commission's rules, that the time for filing comments in the above-captioned proceeding is extended from October 18, 1967, to November 15, 1967, and that the time for filing reply comments is extended from October 30, 1967, to November 27, 1967.

Adopted: October 18, 1967.

Released: Octbor 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67–12955; Filed, Nov. 1, 1967; 8:48 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 300]

IMPORTED WOOL PRODUCTS

Notice of Proposed Rule Making

On September 12, 1966, a notice of proposed rule making was issued by the Federal Trade Commission. Such notice was published in the FEDERAL REGISTER on September 15, 1966. The notice stated that on October 26, 1966, the Commission would hold a public hearing and give consideration to a proposal to amend the rules and regulations under the Wool Products Labeling Act of 1939 to provide a procedure for testing imported wool products and for determination of whether such products comply with the Wool Products Labeling Act of 1939 and the rules and regulations thereunder.

The notice of proposed rule making provided that views, arguments or other pertinent data could be submitted in writing on or before the date of the hearing or presented orally at the hearing and that further written views, arguments and data could be submitted for 20 days after such public hearing.

A draft of the proposed rule designated as proposed § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 was made a part of the notice of proposed rule making.

Pursuant to such notice interested parties were afforded an opportunity to submit the written arguments and other data until October 26, 1966. Interested parties were afforded an opportunity to present their views orally at the public hearing held pursuant to the notice of proposed rule making on October 26 and October 27, 1966. Further written views, arguments and data were received for 20 days after the public hearing. All views, arguments, and data presented pursuant to the notice of proposed rule making were made a part of the public record.

Interested parties were also afforded an opportunity to confer informally with representatives of the staff of the Commission's Bureau of Textiles and Furs whenever such a request was made and to present their views informally either orally or in writing.

After due consideration of the proposed amendment and all pertinent information and material relating thereto available to the Commission, including suggested revisions, deletions, and additions thereto, and all views, arguments, or other data submitted, the Commission on June 21, 1967, amended the rules and regulations under the Wool Products Labeling Act of 1939 by adding a new section thereto designated as § 300.36 (Rule 36) of Part 300, rules and regulations under the Wool Products Labeling Act of 1939. Such amendment was published in the FEDERAL REGISTER on June 24, 1967, and provided that interested persons might submit their comments within 30 days after publication, but specified that this should not affect the effective date unless the Commission should so order. The effective date was specified as 120 days after publication in the FEDERAL REGISTER.

In accordance with the aforesaid notice, the Commission afforded interested parties further opportunity to submit written comments for thirty (30) days after publication of the notice in the FEDERAL REGISTER. All views, arguments and data so submitted have been made a part of the public record.

After due consideration of all pertinent information and material available to it including comments and views presented both formally and informally after publication of the amendment on June 24, 1967, the Commission has determined to revise § 300.36 (Rule 36) and to publish the proposed amendment for further written views and comments. Accordingly, written views, arguments, and other pertinent data will be received by the Commission for fifteen (15) days after publication of the proposed revision in the FEDERAL REGISTER. Such written comments may be submitted to the Federal Trade Commission, Washington, D.C. 20580.

The matter to be considered pursuant to this notice is the proposed amendment of § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939, and suggested changes, additions to, deletions from, and modifications of such proposal.

The proposed amendment of § 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 reads:

§ 300.36 Imported wool products.

(a) *Filing of notice of entry.* Any person who imports wool products into the United States that are subject to a requirement for formal entry through Customs shall file with the Bureau of Customs, at the time of entry for consumption or at the time of entry or withdrawal for consumption from warehouse, a form (Form 36A) in quadruplicate, in the manner prescribed by the Federal Trade Commission showing (1) the proposed type of entry of the shipment (consumption, warehouse, etc.), (2) the port of entry of the shipment, (3) the country of origin of the shipment, (4) a complete description of the products contained in the shipment and the cost thereof per unit in American dollars, (5) the information contained in the required fiber content labels affixed to wool products contained in the shipment, (6) the names and addresses of (i) the exporter, (ii) the manufacturer, (iii) the importer of record, and (iv) the actual importer of the wool products, and (7) the signature of the person filing such form. The original and two copies of Form 36A will be forwarded by the Bureau of Customs to the Bureau of Textiles and Furs, Federal Trade Commission, Washington, D.C. 20580, one copy being retained by the Bureau of Customs.

(b) *Temporary retention in customs.* Wool products subject to this section will be temporarily retained in Customs custody and not released to the importer until the Commission has issued a notice of release: *Provided, however,* That such wool products may be released from Customs custody prior to receipt of the required notice of release upon the giving of a bond, such as an immediate delivery and consumption entry bond, in a form acceptable to the Commissioner of Customs conditioned upon the redelivery to Customs custody of the goods or any part thereof, upon demand by an officer of the Bureau of Customs based upon the determination of the Commission not to issue a notice of release.

(c) *Notice of release.* The Commission will issue a notice of release in one of the following ways: (1) A preentry notice of release may be obtained in appropriate cases where the requirements of paragraph (d) of this section are met by the importer. (2) At ports of entry where a Commission inspector is on duty, he will, upon examination of the Form 36A, either issue a notice of release or inform the importer that certification or testing as provided in paragraph (e) of this section is required. (3) At ports of entry where no Commission inspector is on duty, a determination whether to issue a notice of release or to require certification or testing will be made within 3 working days after the Commission receives the Form 36A. Failure of the Commission to make any determination within this period shall be equivalent to issuance of a notice of release. (4) If certification or testing is required, a notice of release will be issued by the Commission when and if the requirements of paragraph (e) of this section are satisfied.

(d) *Preentry notice of release.* The Commission will, at the request of an importer and upon a proper showing, issue a notice of release prior to entry into the United States of any shipment of wool products. Requests for preentry release shall be accompanied by such information or data, including manufacturers' records, laboratory analyses, foreign government certifications, and certifications of government-designated trade associations or other bodies, as will show no reason to believe that they may be misbranded. The Commission will also consider as relevant a statement that such products are of the same type, category, and fiber content and from the same manufacturer as products that were previously released by the Commission if such statement is accompanied by a copy of the original notice of release. Requests for preentry notice of release shall be filed as early as possible, but in no case less than 7 working days prior to the entry of any shipment. Prior to entry, the Commission will either (1) issue a notice of release, (2) inform the importer that it will require certification and testing of such shipment, or (3) inform the importer that the information submitted is insufficient to support a determination.

(e) *Certification or testing.* (1) Where the Commission has reason to believe that any wool products subject to this section may be misbranded, it may determine not to issue a notice of release but to require that such wool products be held for certification or testing. In such a case, at the option of the Commission, the Commisison may (i) accept a certification as to the fiber content of such products based on a test method and sampling procedure approved by the Commission and submitted by a laboratory included in the Commission's list of approved testing laboratories, or (ii) require that it be furnished with samples of the wool products extracted by a person designated by the Commission, which the Commission will test or have tested at the expense of the importer. Upon acceptance of a proper certification or test results showing the products to be correctly labeled, the Commission will immediately issue a notice of release.

(2) If the certification or test results show the goods to be mislabeled; the Commission will not issue a notice of release until after the goods have been correctly relabeled. If the certification or test results demonstrate that there are such wide variations in the fiber content of individual wool products as to preclude a determination of fiber content on the basis of random sampling, the Commission will not issue a notice of release until after it has determined, upon consultation with the importer, the manner in which such goods should be relabeled, and such goods have been relabeled in conformity with that determination. Relabeling will be done at the expense of the importer, and the Commission will issue a notice of release immediately upon the receipt of satisfactory evidence from the importer showing that the goods have been correctly relabeled.

(f) *Forfeiture of bond.* Upon determination by the Commission that a notice of release will not be issued and where such wool products have been released to an importer under a bond described in paragraph (b) of this section, demand for their redelivery will be made. The failure of the importer to redeliver wool products to Customs custody, after demand therefor, shall subject such importer to payment of liquidated damages as provided for in the bond referred to in paragraph (b) of this section.

(g) *Examination and testing after release.* Any notice given by the Commission as to the manner of labeling imported wool products or any notice of release of wool products given under this section shall be without prejudice to the right of the Commission to subsequently examine and test additional wool products contained in any shipment of imported wool products which has been subject to the procedure provided by this section or to make inspections or investigations relative to such products. The Commission will not proceed against any party for misbranding of wool products which have been subject to the testing procedures provided by this section without notice to such party and affording such party an opportunity to take such effective action as the Commission may deem appropriate to cause any misbranded products to be properly labeled: *Provided, however,* That such party must be able to establish that the wool products have been subject to the testing procedures provided by this section.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED AMENDED RULE

Section 300.36 (Rule 36) of the rules and regulations under the Wool Products Labeling Act of 1939 is promulgated on the basis of the Commission's determination that such regulation is the most practical and equitable means of achieving substantial equality in the administration of the Wool Products Labeling Act of 1939 as applicable to domestic products and imported products and to assure that the ultimate consumer receives the same degree of protection with respect to both types of products.

Domestic manufacturers of wool products are required to keep extensive and detailed manufacturing records disclosing the fiber content of products manufactured by them, and are subject to penalties for failure to maintain such records. In many instances such records are records which would not ordinarily be kept in the regular course of business and are maintained at substantial expense to meet the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. Many domestic manufacturers also utilize fiber content testing performed at their own expense to substantiate their manufacturing records and to determine the fiber content of end products manufactured or sold by them.

Domestic manufacturers and dealers are also subject to inspections at their places of business by investigators of the Commission's Bureau of Textiles and Furs.

Foreign manufacturers and producers are not subject to the aforesaid requirements and are not subject to the jurisdiction of the Federal Trade Commission. Therefore, the Commission has found it necessary to develop a different program intended to achieve substantial equality in enforcement as between domestically produced products and imported products and designed to offer substantially equal protection to the public with reference to all types of wool products.

With respect to imported wool products, Commission enforcement efforts must necessarily be directed at other than the manfacturing level. Since the Commission has no authority to require recordkeeping by foreign producers as to the accuracy of labeling, or to impose sanctions upon them in cases of misbranding, it therefore looks primarily to their customers, American importers, for compliance with the statute. The testing or certification procedures of Rule 36 are not intended to be applicable to products which are not indicated to be subject to widespread misbranding. The rule provides for the testing or certification by an approved laboratory of wool imports prior to their entry into American channels of commerce in only those instances, hopefully infrequent, where, for the purpose of facilitating effective administration and enforcement of the Act, it is in the public interest to require

such testing or certification before the imports move into the stream of domestic commerce.

The rule contemplates a cooperative endeavor between importers and the Government. If, upon testing or certification, products are found to be correctly labeled, the rule provides for their immediate release. If, however, they are found to be misbranded, the importer will be given the opportunity to relabel the products in accordance with the requirements of American law and, upon proper relabeling, the goods will immediately be released. In situations where imported wool products, initially tested or certified and released by the Commission, are subsequently found to be misbranded, the Commission will not proceed against any party without notice where such party is able to show that the goods were subject to this procedure, but will afford reasonable opportunity for fully corrective action to be taken.

It is the understanding of the Commission that the immediate delivery and consumption entry bond referred to in paragraph (e) of § 300.36 (Rule 36) is at present furnished by importers under standard importation procedures and that goods ordinarily move into the hands of the importer under this bond. It is the intention of the Commission to continue to permit goods to pass through Customs and into the hands of the importer subject to the terms and conditions of the bond and § 300.36 (Rule 36) even in those instances where goods are required to be tested.

Where testing or certification is required, it is the intention of the Commission to utilize applicable methods of testing and procedures developed and prescribed by the American Society for Testing and Materials and the American Association of Textile Chemists and Colorists. These methods and procedures have been utilized by producers of and dealers in textile products and by Government agencies, including the Commission, in determining the fiber content of textiles, and are recognized methods of testing textile materials.

Every effort has been made to minimize delays. At those points of entry where a sufficiently large number of wool imports arrive, the Commission will place inspectors on duty so that they may determine upon arrival whether to release a shipment or require its testing or certification. As to shipments arriving at points of entry where the Commission does not have an inspector on duty, paragraph (c) provides that unless the Commission orders testing and certification within 3 working days after receipt of the necessary forms, such goods will be automatically released. Further, the Commission may issue a notice of release prior to importation of any shipment where it is able to determine, on the basis of information submitted, that such shipment should not be retained for purposes of testing.

Such action is taken pursuant to the authority given to the Federal Trade Commission under paragraph (a) of section 6 of the Wool Products Labeling Act of 1939 (54 Stat. 1131; 15 U.S.C. 68d) which provides in part:

The Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act, and for segregation of such information for different portions of a wool product as may be necessary to avoid deception or confusion and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

The Commission is also authorized to cause inspections, analyses, tests, and examination to be made of any wool products subject to this Act; and to cooperate with any department or agency of the Government, with any State, territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

Issued: October 30, 1967.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

Dissenting statement of Commissioner Elman, and the separate statements of Chairman Dixon and Commissioner Jones are filed as part of the original document and read as follows:

DISSENTING STATEMENT OF COMMISSIONER ELMAN

If it were properly drafted, Rule 36 would be a useful aid in the enforcement of the Wool Products Labeling Act. Its purpose, which I strongly endorse, is to prevent misbranded wool imports from entering the channels of domestic commerce. To the extent that the rule provides for the testing of imports which the Commission has reason to believe may be misbranded, and for refusal of admission into the country of those found to be misbranded, Rule 36 is a necessary and proper exercise of the Commission's rule-making authority under section 6 of the Act. It is to be regretted, however, that the Commission has impaired the rule by encumbering it with provisions and procedures which not only are unnecessary and go far beyond its stated objectives, but are clearly unfair, excessively burdensome and discriminatory, and illegal in that they violate the provisions of the General Agreement on Tariffs and Trade (GATT) and deprive importers of substantial rights granted to them by the Wool Producers Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution.

Rule 36 purports to place domestic manufacturers and importers of wool products on a parity, as required by GATT. Article III(4) of GATT provides: "The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use." In fact, however, Rule 36 denies importers rights and protections which are fundamental under American law and which domestic manufacturers enjoy as a matter of course.

It is fundamental under the Wool Products Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution that:

(1) The Commission may issue cease-and-desist orders prohibiting the introduction, sale, transportation, or distribution in commerce of wool products only after administrative proceedings in which the goods have been found to be misbranded.

(2) In the administrative proceedings the respondent is entitled to a fair hearing; the burden of proving that the goods are misbranded rests on the Commission; the findings of violation must be supported by facts of record; and the respondent has a right of judicial review.

(3) In the administrative proceedings the expenses of investigation and prosecution are borne by the Government, not the respondent. Where testing of wool products is required to ascertain whether they are misbranded, the testing is conducted and paid for by the Commission as a regular part of its law enforcement activity.

(4) Where the Commission seeks a preliminary injunction prior to or during the pendency of the administrative proceedings, it must go into a district court and carry the burden of showing the need for such an injunction.

Under Rule 36 in its present form, however, the Commission without any hearing whatsoever and on the basis of its own refusal to issue a notice of release, without any finding that the goods are misbranded, may permanently exclude wool imports from entering the country. Indeed, the rule goes so far as to provide that the Commission will not conduct any tests unless the importer pays for them. Thus, if an importer cannot afford to bear the expense of testing, his goods will not be released even where, if the tests were conducted, they would show the goods to be correctly labeled.

The short of it is that the Commission is using Rule 36 as a means for depriving wool importers of all the substantive and procedural rights and protections which our law properly gives them in the same measure as domestic manufacturers. In practical effect, Rule 36 creates a presumption that wool imports entering the United States are misbranded unless and until the importer proves otherwise. The Commission's refusal to issue a notice of release need be supported only by its own ipse dixit. No administrative hearing of any sort is provided. No record is made. No findings of fact or conclusions of law need be stated. No opportunity is afforded for judicial review.

It is instructive to contrast Rule 36 with the statutory provisions enacted by Congress for dealing with imported food, drugs, and hazardous susbtances which may be misbranded and unsafe (15 U.S.C. 1273; 21 U.S.C. 381). Unlike Rule 36, these provisions are applicable not to every shipment of goods that enters the country but only to those questioned by the Secretary of Health, Education, and Welfare and as to which he requests Customs to deliver samples. Notice thereof is given to the owner or consignee, who is afforded a hearing. The articles are refused admission only if the Secretary determines that they are misbranded. The costs of examination or testing of the samples are borne by the government. Pending decision as to their admission, these articles may be released from Customs custody upon execution of an appropriate entry bond. The bond is subject to forfeiture for failure of redelivery only if the articles are found to be misbranded. Under Rule 36, however, an importer's bond may be forfeited merely because he cannot afford the expense of testing. To the extent that Congress has, in 21 U.S.C. 381, limited the scope of judicial review of the Secretary's findings (cf. Sugarman v. Forbragd, 267 F. Supp. 817 (N.D. Cal. 1967)), it is of course within the exercise of its constitutional power over foreign commerce.

This Commission possesses no comparable power, under the Wool Products Labeling Act or otherwise.

In its present form Rule 36 goes far beyond what is "necessary and proper for administration and enforcement" of the Wool Act. It is of sweeping dimensions, covering all wool products entering the United States. Its coverage is so broad that, as a practical matter, it can be administered by the Commission only by making a blank-check delegation of authority to low-echelon subordinate employees in the field. The objectionable features of the rule impose an unfair and unjustifiable burden on international trade. Objections to these provisions have been strongly expressed to the Commission by representatives of many foreign governments, the State Department, and trade associations. It is disheartening that the rule in its present form continues to retain these objectionable features.

It may be noted, finally, that as a practical matter there is no need or justification for Rule 36 in its present drastic form. The enforcement problem at which Rule 36 is directed is narrow and limited. Many hundreds of thousands of shipments of wool imports enter the United States each year. The Commission's records indicate that, of these, less than a handful are misbranded. These have principally involved so-called mohair-blend sweaters imported from Italy, products knitted in homes by Italian women from yarn spun from mohair imported from other countries. As the hearing examiner found in R. H. Macy & Co., Inc., Docket 8650, Initial Decision, August 1, 1966, the problem with respect to the labeling of these mohair-blend sweaters imported from Italy involves "difficulties and pecularities characteristic of those sweaters which are not generally applicable to other wool products." The nub of the problem is the variance and lack of uniformity of the constituent fibers, making reliable testing of samples difficult if not impossible.

Granting the need for a rule to deal with this problem, there is no justification for the across-the-board, arbitrary, unfair, and discriminatorily restrictive provisions of Rule 36, burdening and delaying the importation of all wool products entering the United States, the overwhelming majority of which are correctly labeled. The rule seems to be a classic example of burning the house down in order to roast the pig. Unfortunately, because of the form in which it has been cast by the Commission, it seems likely that Rule 36 will also be consumed in the conflagration.

SEPARATE STATEMENT OF CHAIRMAN DIXON

In dissenting to the promulgation of Rule 36, Commissioner Elman states that he strongly endorses the purpose of the rule, which is to prevent misbranded wool imports from entering the channels of domestic commerce. However, he finds the provisions and procedures provided by the rule violate the provisions of the General Agreement on Tariffs and Trade (GATT) and deprive importers of substantial rights granted to them by the Wool Products Labeling Act, the Federal Trade Commission Act, the Administrative Procedure Act, and the due process clause of the Fifth Amendment of the Constitution. More specifically, it is his position that the Commission is using Rule 36 as a means for depriving wool importers of all substantive and procedural rights and protections which our law properly gives them. Thus, in criticizing Rule 36, he states that no administrative hearing of any sort is provided; no record is made; no findings of fact or conclusions of law need be stated; and no opportunity is afforded for judicial review.

In support of his position, Commissioner Elman finds it instructive to contrast Rule 36 with the statutory provisions enacted by Congress for dealing with imported food, drugs, and hazardous substances which may be misbranded. By implication, he would not question the Commission's authority to do by rule under the Wool Act what Congress has done by statute in regard to those products.

I find that it is indeed instructive to consider the statutory provisions enacted by Congress to deal with the importation of food, drugs, and hazardous substances. 21 U.S.C. 381, relating to food drugs, devices, and cosmetics (which in all respects here material is identical with 15 U.S.C. 1273, relating to hazardous substances) is directly in point. Under this provision, Customs is directed to deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of such products which are being imported or offered for import into the United States.

The decision of the district court in Sugarman v. Forbragd, 267 F. Supp. 817 (1967), deals squarely with the provisions of 21 U.S.C. 381. In that case the owner of the imported food product alleged a prejudicial abuse of discretion in that the basis for the Food and Drug Administration's decision on his petition for permission to sell the imported product was not confined to the record of hearing. The court, after reviewing the requirements of the Administrative Procedure Act, pointed out that 21 U.S.C. 381 provides that the Secretary is directed to refuse admission of food offered for import "if it appears from the examination of such samples or otherwise that * * * such article is adulterated * * *." Therefore, in response to petitioner's argument, the court stated:

Thus the mere appearance of adulteration is enough to compel refusal to admit. There is no requirement that the food actually be adulterated or that the Secretary find, as a fact, that the food is adulterated. Nor is the Secretary directed to rely upon testimony offered at the hearing. On the contrary, his conclusion that the food "appears" to be adulterated may derive "from the examination of such samples or otherwise." There is no provision for judicial review.

The court went on to point out that the testimony offered by the owner at the hearing "has no mandatory or limiting effect upon the Secretary" and that, in fact, the hearing is usually informal and without a court stenographer present. On this same point, the court further stated that "[t]he import provisions of the Federal Food, Drug, and Cosmetic Act afford an opportunity for a limited hearing but do not require the agency action to be determined 'on the record.'"

Furthermore, the court in the Sugarman case took the opportunity to comment on the power that Congress has over imports by quoting from the decision in a Supreme Court case [1] that:

As a result of the complete power of Congress over foreign commerce, it necessarily follows that no individual has a vested right to trade with foreign nations which is so broad in character as to limit and restrict the power of Congress to determine what articles of merchandise may be imported into this country and the terms upon which a right to import may be exercised.

At the risk of belaboring the court's decision, I find that in view of the serious regard with which I hold Commissioner Elman's dissent, a further comment from the Sugarman case is warranted. Thus, the court quoted as follows from the Supreme Court's decision in the Buttfield case in answer to the argument that there was a denial of due process because the importer was not accorded a hearing:

The provisions in respect to the fixing of standards and the examination of samples by Government experts was for the purpose of determining whether the conditions existed which conferred the right to import, and they therefore in no just sense concerned a taking of property. This latter question was intended by Congress to be finally settled, not by a judicial proceeding, but by the action of the agents of the Government, upon whom power on the subject was conferred.

Thus, the statutory provisions enacted by Congress to deal with imported food, drugs, devices, and cosmetics, which Commissioner Elman would contrast with Rule 36, do not require that agency action be taken on the record and do not provide a right of judicial review.

21 U.S.C. 381(b) does provide that the imported goods may be released from Customs' custody upon execution of an appropriate entry bond. However, goods so released must be retained by the owner separate and apart from other goods and, subject to forfeiture of the bond, may not be distributed in this country until the Secretary has determined whether such goods are misbranded. Moreover, in those instances where the Secretary finds that misbranded imports may be brought into compliance by relabeling, the goods remain subject to the bond until such relabeling is completed.

Rule 36 likewise provides for the release from Customs' custody of imported wool products upon the execution by the importer of an appropriate entry bond. The goods remain subject to the bond until the Commission issues a notice of release. Subparagraph (c) of the rule specifically sets forth the manner in which a notice of release will be issued. Among other things, this section provides for a preentry notice of release and, under certain circumstances, provides that the Commission's failure to make a determination within 3 working days shall be equivalent to issuance of a notice of release.

It is only after the Commission has reason to believe that imported wool products may be misbranded that it can require that imported wool products be held for certification or testing. Subparagraph (e) expressly provides that upon acceptance of a proper certification or test results showing the goods to be properly labeled, the Commission will immediately issue a notice of release. In those instances in which the goods are shown to be misbranded, they remain subject to the bond only until they are correctly labeled.

Under the foregoing circumstances, I think it clear that Rule 36 does conform to the statutory pattern established by Congress in the case of imported food, drugs, devices, and cosmetics and that Commissioner Elman's contentions to the contrary are not justified.

Commissioner Elman is also of the view that Rule 36 violates the provisions of GATT which provide in part, that "[t]he products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use."

GATT certainly doesn't require that imported goods be given more favorable treatment than domestic goods, which is the situation which prevails in the absence of Rule 36. Under past programs available to the to the Commission, there has been no effective means of determining whether imported

[1] Buttfield v. Stranahan, 192 U.S. 470 (1903).

goods were actually in compliance with the Act except by incidental tests after the goods have been distributed in commerce. The result has been that domestic goods have been placed at a substantial disadvantage inasmuch as they have not only been subject to the same type of examination at the retail level as foreign goods, but, in addition, have been subject to examination and investigation throughout the chain of manufacturing and distribution.

Section 6(b) of the Wool Act requires that "[e]very manufacturer of wool products shall maintain proper records showing the fiber content as required by this Act of all wool products made by him, and shall preserve such records for at least 3 years." Failure to maintain these records subjects the domestic manufacturer to a penalty of $100 for each day of such failure. The Commission's regulation spell out in great detail these recordkeeping requirements. In substance, domestic manufacturers have been required to maintain records which establish a line of continuity from the raw materials utilized in the manufacture of the product to the finished product, showing the supplier of the raw material, the fabric content of the raw material, and detailed manufacturing and blend records.

In most instances, the records required to be kept by Section 6(b) and the regulations are much more extensive than ordinarily would be maintained in the course of business and, thus, impose an additional expense on the domestic manufacturer. While it would be extremely difficult to formulate any hard and fast basis of comparison, it would seem that the costs which will be involved in testing under Rule 36 will not be as great as the cost of the time and money spent by domestic producers in maintaining records, devoting working time to Government personnel, and, in general, complying with the requirements of the Wool Act. Additionally, it would be impossible to measure the losses incurred by domestic firms because of their competition with imported goods which, aside from any other factors involved in the cost, may be sold at substantially lower prices when they are not as represented on their labels. Moreover, the recordkeeping requirements permit the Commission's staff to resolve the bulk of its questionable labeling cases against domestic producers and their dealers by the simple, inexpensive method of checking the records, rather than having to use the time-consuming, expensive laboratory method.

Instead of violating the provisions of GATT, Rule 36 does no more than remove the disadvantages under which domestic manufacturers now operate and place them on a fair competitive basis with foreign manufacturers.

In addition to the foregoing, a few additional comments on Commissioner Elman's dissent are warranted. First, contrary to his assertion, the Commission's records indicate that misbranded imported goods have involved many types of goods, including not only hand-knit sweaters, but also fabrics, yarns, reclaimed fiber stocks, and various types of articles of wearing apparel, especially sportswear and casual wear. Further, since no general information is available to the Commission relative to the nature and type of imports, there may well be other areas of misbranding of which we are not aware.

Commissioner Elman also expresses the fear that under Rule 36, the Commission may permanently exclude wool imports from entering the country. Presumably, he has reference to imports which are properly labeled. Certainly, such action by the Commission would be arbitrary and an abuse of discretion. Section 10 of the Administrative Procedure Act provides for appropriate judicial review of such agency action.

In conclusion, section 6(a) of the Wool Act authorizes and directs the Commission to make such rules and regulations under the Act as may be "necessary and proper for administration and enforcement." I am convinced that Rule 36 as drafted is necessary and proper to achieve substantial equality in the administration of the Wool Act as applicable to domestic products and imported products.

SEPARATE STATEMENT OF COMMISSIONER JONES

I am in basic agreement with Rule 36 as now being promulgated by the Commission. However, there are two provisions to which I dissent—(1) denying the importer the option of furnishing either test results or samples for the Commission to test, and (2) requiring the importer to bear the expense of testing which the Commission may require.

[F.D. Doc. 67-12944; Filed, Nov. 1, 1967; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Construction Contractors

Notice is hereby given that the Administrator of the Small Business Administration (SBA) proposes to hold a hearing on the definition of small business construction contractors for the purpose of bidding on Government procurements and receiving SBA business loans.

Section 121.3-8(a) of the Small Business Size Standards Regulation (32 F.R. 6175) presently provides:

(a) *Contruction.* Any concern bidding on a contract for work which is classified in Division C, Contract Construction of the Standard Industrial Classification Manual, as amended, prepared and published by the Bureau of the Budget, Executive Office of the President, is:

(1) Small if its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million.

(2) Small if it is bidding on a contract for dredging and its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

Division C, Contract Construction of the 1967 Standard Industrial Classification Manual prepared by the Bureau of the Budget, Executive Office of the President, includes the following:

MAJOR GROUP 15. BUILDING CONSTRUCTION—GENERAL CONTRACTORS

Sec.
1511 General Building Contractors.

MAJOR GROUP 16. CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION—GENERAL CONTRACTORS

1611 Highway and Street Construction, Except Elevated Highways.
1621 Heavy Construction, Except Highway and Street Construction.

MAJOR GROUP 17. CONSTRUCTION—SPECIAL TRADE CONTRACTORS

Sec.
1711 Plumbing, Heating (Except Electric), and Air Conditioning.
1721 Painting, Paper Hanging, and Decorating.
1731 Electrical Work.
1741 Masonry, Stone Setting, and Other Stonework.
1742 Plastering and Lathing.
1743 Terrazzo, Tile, Marble, and Mozaic Work.
1751 Carpentering.
1752 Floor Laying and Other Floorwork, Not Elsewhere Classified.
1761 Roofing and Sheet Metal Work.
1771 Concrete Work.
1781 Water Well Drilling.
1791 Structural Steel Erection.
1792 Ornamental Metal Work.
1793 Glass and Glazing Work.
1794 Excavating and Foundation Work.
1795 Wrecking and Demolition Work.
1796 Installation or Erection of Building Equipment, Not Elsewhere Classified.
1799 Special Trade Contractors, Not Elsewhere Classified.

The size definition of a small construction concern for the purpose of receiving financial assistance, is set forth in § 121.3-10(a) of the Small Business Size Standards Regulation which provides: Any construction concern is small if its average annual receipts do not exceed $5 million for the preceding 3 fiscal years.

It has been suggested that (1) certain types of special trade construction contractors are much smaller than general construction contractors, and (2) the present $7.5 million annual receipts procurement size standard applicable to all construction contractors, except for dredging contractors, results in nearly all special trade construction contractors being eligible as small business. Accordingly, it has been suggested that SBA establish a separate and smaller size standard for certain special trade construction contractors.

The Small Business Act provides that the Government should aid, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property or services for the Government be placed with small business enterprises, and to maintain and strengthen the overall economy of the nation. Therefore, SBA is interested in receiving information as to the following:

1. The extent to which small, independently owned and operated special trade construction contractors compete directly with general construction contractors or with subsidiaries or affiliates of general construction contractors which are engaged in special trade work.

2. The extent to which general building construction contractors compete with other general construction contractors, such as highway, street, bridge and other types of heavy construction contractors.

3. The extent to which special trade construction contractors bid separately

from general construction contractors on general building contracts.

4. The desirability of establishing one or more separate size standards for special trade construction contractors.

5. The appropriate size standard or size standards for special trade construction contractors.

Whenever possible, proposals or statements should be supported by substantiating statistics or pertinent factual information.

The hearing will be held on November 30, 1967, at 9 a.m., e.s.t., in Room 214–216, 1441 L Street NW., Washington, D.C. Persons intending to testify at the hearing are requested to notify the Associate Administrator for Procurement and Management Assistance on or before November 22, 1967. Parties who wish to submit written comments in lieu of testifying or in addition to their oral testimony shall file such statements with the Associate Administrator for Procurement and Management Assistance not later than 15 days after adjournment of the hearing.

All correspondence shall be addressed to:

Associate Administrator for Procurement and Management Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Attention: Size Standards Staff.

Dated: October 27, 1967.

ROBERT C. MOOR,
Administrator

[F.R. Doc. 67-12940; Filed, Nov. 1, 1967; 8:47 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 67-254]

TARIFF CLASSIFICATION—SECOND CLEAR WHEAT FLOUR

Change of Practice Ruling

OCTOBER 27, 1967.

Pursuant to § 16.10a(d), the Bureau of Customs gave notice in the FEDERAL REGISTER for June 17, 1967 (32 F.R. 8729), that it would review the existing established and uniform practice of classifying second clear wheat flour under the provisions for "Animal feeds, and ingredients therefor, not specially provided for: Byproducts obtained from the milling of grains * * *" in item 184.70, Tariff Schedules of the United States (TSUS). This review has been completed and all representations received have been carefully considered.

The review shows that at the time the practice was established second clear wheat flour was considered a byproduct of the milling of grain and was chiefly used as an animal feed or ingredient therefor. Evidence developed during the study showed that second clear wheat flour is no longer considered a byproduct of the milling of grain and is no longer chiefly used as an animal feed or ingredient therefor.

Accordingly, it is the decision of the Bureau that second clear wheat flour is classifiable under the provisions for milled grain products in item 131.40, TSUS, if fit for human consumption, or in item 131.72, TSUS, if unfit for human consumption.

This ruling shall apply only to such second clear wheat flour as is entered, or withdrawn from warehouse, for consumption after the expiration of 90 days after the date of publication of this ruling in the weekly Customs Bulletin.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[F.R. Doc. 67-12962; Filed, Nov. 1, 1967; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2288]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management; Correction

OCTOBER 25, 1967.

In Federal Register Document 67-12416, appearing at pages 14607-09 of the issue for Friday, October 20, 1967, the following change should be made:

1. Under T. 45 N., R. 14 W., "Secs. 22 to 35" should be "Secs. 22 to 27";

2. T. "45 N., R. 20 W.", should be T. "45 N., R. 18 W.".

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-12929; Filed, Nov. 1, 1967; 8:46 a.m.]

[C-2288]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

OCTOBER 25, 1967.

The notice of proposed classification appearing as Federal Register Document 67-7777, pages 9989-91 of the issue for Friday, July 7, 1967, is hereby amended to include the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

MONTROSE COUNTY

T. 46 N., R. 15 W.,
Sec. 15, N½, SW¼;
Sec. 21, that portion south of San Miguel River;
Sec. 22, NE¼, N½NW¼, W½SW¼, SE¼.

J. ELLIOTT HALL,
Acting State Director.

[F.R. Doc. 67-12930; Filed, Nov. 1, 1967; 8:46 a.m.]

[Serial No. I-1518]

IDAHO

Notice of Classification of Public Lands for Multiple-Use Management

OCTOBER 27, 1967.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the area described below, together with any lands therein that may become public lands in the future, are hereby classified for multiple-use management. Publication of this notice (a) segregates all the public land in the described area below from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171) and (b) further segregates the lands described in paragraph 3 of this notice from the operation of the general mining laws (30 U.S.C., Ch. 2). Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (43 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The classified public lands are located within the following described area in Butte County and are shown on maps designated I-3-607(1), on file in the Idaho Falls District Office, Bureau of Land Management, and in the Land Office, Bureau of Land Management, Boise, Idaho.

BOISE MERIDIAN, IDAHO, BUTTE COUNTY

T. 2 N., R. 23 E.,
Secs. 1, 2, 11, 12, 13, and 24, those portions lying within Butte County.
T. 3 N., R. 23 E.,
Secs. 25, 26, 35, and 36, those portions lying within Butte County.
T. 1 N., R. 24 E.,
Secs. 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32, and 33.
T. 2 N., R. 24 E.,
Sec. 1;
Secs. 3 to 10, inclusive;
Sec. 11, NE¼, S½NW¼, and S½;
Secs. 12 to 15, inclusive;
Sec. 16, N½ and N½S½;
Secs. 17, 18, 19, 20, 23, 24, 28, 32, and 33, those portions lying within Butte County.
T. 3 N., R. 24 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 17, S½SE¼;
Secs. 19 to 36, inclusive.
T. 4 N., R. 24 E.,
Sec. 1, NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, S½NE¼, NE¼SE¼NW¼, S½SE¼NW¼, and S½;
Sec. 2, S½NE¼SE¼ and SE¼SE¼;
Secs. 10 to 15, inclusive;
Sec. 19;
Secs. 21 to 28, inclusive;
Sec. 30;
Secs. 33 to 36, inclusive.
T. 1 N., R. 25 E.,
Secs. 1, 2, and 11 to 14, inclusive.
T. 2 N., R. 25 E.,
Secs. 1 to 26, inclusive;
Secs. 35 and 36.
T. 3 N., R. 25 E.,
Sec. 4, N½ and N½S½;
Secs. 5 to 8, inclusive;
Secs. 18 and 19;
Sec. 23, S½;
Secs. 24, 25, and 26;
Sec. 27, NE¼, S½NW¼, and S½;
Sec. 28;
Sec. 29, SE¼NE¼ and E½SE¼;
Sec. 31, E½NE¼ and S½;
Secs. 32 to 36, inclusive.
T. 4 N., R. 25 E.,
Secs. 1 to 24, inclusive;
Secs. 28 to 33, inclusive.
T. 5 N., R. 25 E.,
Secs. 12 and 13;
Sec. 14, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Secs. 21 to 27, inclusive, those portions within Butte County;
Sec. 28, NE¼, NE¼SE¼NW¼, S½SE¼NW¼, and S½;
Sec. 29, S½SW¼, NE¼SE¼, NE¼NW¼SE¼, S½NW¼SE¼, and S½SE¼;
Secs. 31 to 36, inclusive, those portions within Butte County.

T. 7 N., R. 25 E.,
Sec. 23, SE¼, those portions within Butte County;
Sec. 24, NE¼, E½NW¼, and S½;
Secs. 25, 26, and 35, those portions within Butte County.
Tps. 1 and 2 N., R. 26 E.,
All.
T. 3 N., R. 26 E.,
Secs. 3 and 4;
Sec. 5, E½ and E½W½;
Secs. 8 and 9;
Sec. 10, N½NW¼;
Secs. 19, 21, 22;
Sec. 23, W½SW¼;
Sec. 24, S½NE¼, SE¼NW¼, and S½;
Secs. 25 to 28, inclusive;
Sec. 29, S½S½;
Secs. 30 to 36, inclusive.
T. 4 N., R. 26 E.,
Secs. 1, 2, 6, 7, 11, 12, 13, 14, and 18;
Sec. 19, W½E½NW¼, W½NW¼, and W½SW¼;
Secs. 23, 24, 25, and 28;
Sec. 29, S½S½;
Secs. 32 and 33.
T. 5 N., R. 26 E.,
Secs. 2 and 3;
Sec. 7, S½NE¼, NE¼SW¼NW¼, S½SW¼NW¼, SE¼NW¼, SW¼, and W½SE¼;
Sec. 10, NE¼NE¼, E½NW¼NE¼, SE¼NE¼, E½NE¼SE¼, and E½W½NE¼SE¼;
Sec. 11;
Sec. 12, W½;
Sec. 13, W½;
Secs. 14 and 17 to 20, inclusive;
Secs. 23 to 36, inclusive;
Sec. 29, W½NW¼, N½SW¼;
Sec. 30;
Sec. 31, N½NE¼, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 32, S½SW¼;
Sec. 35, NE¼, E½NE¼NW¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 36.
T. 6 N., R. 26 E.,
Secs. 5, 6, and 8;
Sec. 9, W½;
Sec. 21, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 22;
Sec. 26, W½;
Secs. 27, 34, and 35.
T. 7 N., R. 26 E.,
Sec. 18, S½S½;
Sec. 19;
Sec. 20, W½;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.
T. 8 N., R. 26 E.,
Sec. 1.
T. 9 N., R. 26 E.,
Secs. 1 to 31, inclusive;
Secs. 35 and 36.
T. 10 N., R. 26 E.,
Secs. 1 to 12, inclusive;
Sec. 13, W½ and W½SE¼;
Secs. 14 to 23, inclusive;
Sec. 24, W½NE¼, SE¼NE¼, W½, and SE¼;
Secs. 25 to 36, inclusive.
T. 1 N., R. 27 E.,
All.
T. 2 N., R. 27 E.,
All.
T. 3 N., R. 27 E.,
Secs. 1, 2, and 3;
Sec. 11, N½, NE¼SW¼, E½SE¼SW¼, and SE¼;
Secs. 12, 13, and 14;
Sec. 19, S½NW¼ and S½;
Sec. 20, E½E½, S½SW¼;
Sec. 21;
Sec. 22, S½SW¼, SE¼;
Secs. 23 to 36, inclusive.
T. 4 N., R. 27 E.,
All.
T. 5 N., R. 27 E.,
Sec. 19;
Secs. 25 to 36, inclusive.
T. 6 N., R. 27 E.,
Sec. 1;
Sec. 2, N½;
Sec. 3, N½;
Secs. 12 and 13;
Sec. 14, SE¼;
Sec. 23, E½;
Secs. 24 and 25;
Sec. 26, E½.
T. 7 N., R. 27 E.,
Secs. 1 to 4, inclusive;
Secs. 9, 10, and 11;
Sec. 12, W½NW¼SW¼, SE¼NW¼SW¼, and SW¼SW¼;
Secs. 13 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 34, 35, and 36.
T. 8 N., R. 27 E.,
Secs. 1 and 2;
Sec. 3, NE¼NE¼, W½NW¼SW¼, and S½SW¼;
Secs. 4 to 9, inclusive;
Sec. 10, W½ and W½W½SW¼SE¼;
Sec. 11, NE¼, NE¼NW¼, E½SE¼NW¼, and SE¼;
Secs. 12 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 9 N., R. 27 E.,
Secs. 2 and 3;
Sec. 4, N½, NW¼SW¼, N½SE¼, N½SE¼SE¼, and SE¼SE¼SE¼;
Secs. 5, 6, and 7;
Sec. 8, N½, SW¼, W½SE¼, and W½E½SE¼;
Secs. 10, 11, 13, and 14;
Sec. 15, NE¼, NE¼SE¼NW¼, S½SE¼NW¼, E½SW¼, and SE¼;
Sec. 17, W½NE¼NE¼, W½NE¼, SE¼NE¼, W½, and SE¼;
Secs. 18, 19, and 20;
Sec. 22, NE¼, NE¼NW¼, E½SW¼NW¼, SE¼NW¼, NE¼SW¼, E½NW¼SW¼, E½W½NW¼SW¼, S½SW¼, and SE¼;
Secs. 23 to 33, inclusive;
Sec. 34, N½, NE¼NE¼SW¼, N½SE¼, E½SW¼SE¼, and SE¼SE¼;
Secs. 35 and 36.
T. 10 N., R. 27 E.,
Secs. 4 to 9, inclusive;
Sec. 15, S½;
Secs. 16 to 22, inclusive;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27;
Sec. 28, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼, and SE¼;
Secs. 29 to 32, inclusive;
Sec. 33, N½NE¼, E½SW¼NE¼, E½W½SW¼NE¼, SE¼NE¼, N½NE¼NW¼, SE¼NE¼NW¼, SW¼SW¼, NE¼SE¼, E½NW¼SE¼, E½W½NW¼SE¼, E½SW¼SE¼, E½W½SW¼SE¼, and SE¼SE¼;
Secs. 34 and 35.
T. 1 N., R. 28 E.,
All.
T. 3 N., R. 28 E.,
Sec. 5, lots 1 to 4, inclusive, S½NW¼ and NW¼SW¼;
Sec. 6.
T. 4 N., R. 28 E.,
Sec. 1;
Secs. 5 to 8, inclusive;
Sec. 9, W½;
Secs. 12 and 13;
Secs. 16 to 23, inclusive;
Sec. 24, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 25, NW¼NW¼;
Sec. 26, N½, N½SW¼, SW¼SW¼, and NW¼SE¼;
Secs. 27 to 32, inclusive;
Sec. 33, N½, SW¼, and N½SE¼;
Sec. 34, NW¼NE¼, N½NW¼, and SW¼NW¼.
T. 5 N., R. 28 E.,
Secs. 1, 2, 12, 13, 24, and 31.
T. 6 N., R. 28 E.,
Secs. 1 to 12, inclusive;
Sec. 13, NW¼NW¼;
Sec. 14, N½NE¼NE¼, SE¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SW¼NE¼, W½, W½SE¼, and W½SE¼SE¼;
Secs. 15 to 23, inclusive;
Sec. 24, SW¼NW¼ and W½SW¼;
Sec. 25, W½E½NW¼NW¼, W½NW¼NW¼, SW¼NW¼, S½S½NE¼SW¼, W½SW¼, SE¼SW¼, and S½SE¼;
Secs. 26 to 30, inclusive;
Secs. 35 and 36.
T. 7 N., R. 28 E.,
Secs. 1 to 6, inclusive;
Sec. 8, E½NE¼, E½NE¼SE¼, E½W½NE¼SE¼, and E½SE¼SE¼;
Secs. 9 to 16, inclusive;
Sec. 18, W½NE¼SW¼, SE¼NE¼SW¼, W½SW¼, SE¼SW¼, SW¼SE¼, S½N½SE¼SE¼, and S½SE¼SE¼;
Secs. 19 and 20;
Sec. 21, NE¼, W½SW¼, SE¼SW¼, and SE¼;
Secs. 22 to 36, inclusive.
T. 8 N., R. 28 E.,
Secs. 5 to 8, inclusive;
Secs. 16 to 18, inclusive;
Sec. 19, N½, N½S½;
Secs. 20 to 23, inclusive;
Secs. 25 to 29, inclusive;
Sec. 30, SW¼;
Sec. 31;
Sec. 32, NE¼, E½NW¼, E½NE¼SW¼, and SE¼;
Secs. 33 to 36, inclusive.
T. 9 N., R. 28 E.,
Sec. 19, S½;
Sec. 20, SW¼;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.
T. 1 N., R. 29 E.,
All.
T. 4 N., R. 29 E.,
Sec. 5, NW¼NE¼ and W½;
Secs. 6 and 7;
Sec. 8, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 18, N½NE¼, SW¼NE¼, W½, and NW¼SE¼;
Sec. 19, N½NW¼, and SW¼NW¼.
T. 5 N., R. 29 E.,
Sec. 4;
Sec. 5, W½NW¼NE¼, SE¼NW¼NE¼, S½NE¼, W½, and SE¼;
Secs. 6 to 9, inclusive;
Secs. 17 to 20, inclusive;
Sec. 21, W½W½;
Secs. 29, 30, and 31;
Sec. 32 W½E½, and W½.
T. 6 N., R. 29 E.,
Sec. 1, S½;
Sec. 2, S½;
Sec. 3, W½, and SE¼;
Sec. 4;
Sec. 5, N½, N½SW¼, N½SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 6, N½, SW¼, N½SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 8;
Sec. 9, N½, E½SW¼, and SE¼;
Sec. 10, 11, and 12;
Sec. 13, N½, N½SW¼, N½SW¼SW¼, N½S½SW¼SE¼, N½SE¼SW¼, N½S½SE¼SW¼, N½SE¼, N½SW¼SE¼, and N½N½SE¼SE¼;
Sec. 14, N½, N½NE¼SW¼, SE¼NE¼SW¼, N½SE¼, N½SE¼SE¼, and N½S½SE¼SE¼;
Sec. 15, N½NE¼, N½S½NE¼, N½NW¼, and N½S½NW¼;
Sec. 30;
Sec. 31, S½SW¼NE¼, SE¼NE¼, W½NW¼, W½SE¼NW¼, SE¼SE¼NW¼, and S½;
Sec. 32.

T. 7 N., R. 29 E.,
Secs. 6, 7, 18, and 19;
Sec. 29, W½, and SE¼;
Secs. 30, 31, and 32.
T. 8 N., R. 29 E.,
Sec. 31, S½.
T. 10 N., R. 29 E.,
Secs. 4, 5, 6, 8, 9, 16, 17, 21, and 28.
T. 1 N., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 6 N., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 and 17;
Sec. 18, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼, and SE¼;
Secs. 19, 20, 21, and 28;
Sec. 29, NE¼.
T. 7 N., R. 30 E.,
Secs. 2, 3, 4, 9, 10, 11, 14, and 15;
Sec. 16, E½;
Sec. 21, E½;
Secs. 22, 23, 26, 27, 28, 33, 34, and 35.
T. 1 S., R. 27 E.,
All.
T. 1 S., R. 28 E.,
All.
T. 1 S., R. 29 E.,
All.
T. 1 S., R. 30 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.

The area described aggregates approximately 571,600 acres.

3. As provided in paragraph 1 above, the following lands are further segregated from appropriation under the general mining laws:

BOISE MERIDIAN, IDAHO

BERENICE ARCHEOLOGICAL SITE

T 6 N., R. 30 E.,
Sec. 7;
Sec. 8;
Sec. 17, N½N½;
Sec. 18, NE¼NE¼.

LITTLE LOST CAMPGROUND

T. 9 N., R. 27 E.,
Sec. 4, lot 2, SW¼NE¼, NW¼SE¼.

BADGER CREEK CAMPGROUND

T. 9 N., R. 27 E.,
Sec. 28, W½SE¼, SW¼NE¼.

WET CREEK CAMPGROUND

T. 9 N., R. 26 E.,
Sec. 20, SW¼NW¼.

DRY CREEK CANAL CAMPGROUND

T. 10 N., R. 26 E.,
Sec. 33, S½SE¼.

HAWLEY MT. CAMPGROUND

T. 9 N., R. 26 E.,
Sec. 4, S½NW¼.

KIPUKA

T. 1 N., R. 24 E.,
Sec. 29, NW¼.

These areas aggregate 2,076.52 acres.

4. For a period of thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR, Section 2411.2c.

JOE T. FALLINI,
State Director.

[F.R. Doc. 67-12931; Filed, Nov. 1, 1967; 8:46 a.m.]

[A 1423]

ARIZONA

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272) as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following described lands have been reconveyed to the United States under Serial No. Arizona 034207.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 11 S., R. 29 E.,
Sec. 22, NE¼NE¼;
Sec. 23, W½NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 26, NE¼.

The area described contains 560 acres.

2. The lands are located in Cochise County approximately 11 miles north of Bowie, Ariz. The topography varies from moderately flat flood plain to gently rolling foothills. Soils are fine sandy and silty clay loam. Vegetation consists of creosote bush, burro weed, snake weed, saltbush, mesquite, tobosa, and various annual grasses. The lands have value for watershed, grazing, and some wildlife which can best be managed under the principals of multiple use.

3. Subject to valid existing rights, the provisions of the present multiple-use classification A 467 published April 27, 1967 (32 F.R. 6526) and the requirements of applicable law, petition, location and selection, any petition-application that is filed for classification will be considered on its own merits in accordance with existing law and regulations.

4. This order shall become effective at 10 a.m. on December 2, 1967.

5. Inquires concerning these lands shall be addressed to the U.S. Bureau of Land Management Arizona Land Office, Room 3022, Federal Building, Phoenix, Ariz. 85025.

RILEY E. FOREMAN,
Acting State Director.

OCTOBER 27, 1967.

[F.R. Doc. 67-12928; Filed, Nov. 1, 1967; 8:46 a.m.]

Office of the Secretary

EDGAR A. WEYMOUTH

Report of Appointment and Statement of Financial Interests

SEPTEMBER 7, 1967.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER.

Name of appointee: Edgar A. Weymouth.

Name of employing agency: Office of Oil and Gas—Emergency Petroleum and Gas Administration, Region 8.

The title of the appointee's position: Deputy Regional Administrator.

The name of the appointee's private employer or employers: Western Oil and Gas Association.

The statement of "financial interests" for the above appointee is set forth below.

DAVID S. BLACK,
Under Secretary of the Interior.

APPOINTEE'S STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER.

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on September, 25, 1967, as member in, Emergency Petroleum & Gas Administration, an officer or director:

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Western Airlines.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment:

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

None.

EDGAR A. WEYMOUTH.

OCTOBER 10, 1967.

[F.R. Doc. 67-12932; Filed, Nov. 1, 1967; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

ALBANY MEDICAL COLLEGE OF UNION UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00123-00-46040. Applicant: Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.Y. 12208. Article: Electron Microscope Accessory Model 171048 Shutter for applicant's foreign made Electron

Microscope. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used to expose photoplates during operation of the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory which is intended to be used with a Siemens electron microscope which is manufactured in West Germany.

The accessory must be specially designed to work with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope.

The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12914; Filed, Nov. 1, 1967; 8:45 a.m.]

RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00122-00-46040. Applicant: The Research Foundation of State University of New York, Upstate Medical Center, 766 Irving Avenue, Syracuse, N.Y. 13210. Article: Electron Microscope Accessory Model 171460 Shutter for applicant's foreign made Electron Microscope. Manufacturer: Siemens Aktiengesellschaft, West Germany. Intended use of article: The article will be used to expose photoplates during operation of the electron microscope. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory which is intended to be used with a Siemens electron microscope which is manufactured in West Germany.

The accessory must be specially designed to work with the Siemens electron microscope. The only known source for such accessory is the manufacturer of the Siemens electron microscope.

The Department of Commerce knows of no comparable accessory which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12915; Filed, Nov. 1, 1967; 8:45 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00142-65-46040. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, Calif. 94720. Article: Electron Microscope, Hitachi Perkin-Elmer, Model HU-650 and ancillary equipment. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

To be used by the senior scientific staff and graduate students for research in studying theory of electron diffraction, multiple beam interactions, and crystalline structure of materials using photomicrographs at magnifications of one hundred thousand times with resolving details separated by less than ten angstroms.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides an accelerating voltage of 650 kilovolts, whereas the only known domestic electron microscope (Radio Corporation of America (RCA) Model EMU-4) provides a maximum of 100 kilovolts accelerating voltage. The higher the accelerating voltage, the greater the penetrating power of the electron beam and, consequently, the thicker the specimen which may be investigated. This is significant in research on metals and similar materials for which thick specimens must be used because of the nature of such materials. Applicant indicates that RCA was developing a prototype electron microscope with a 500 kilovolt acceleration, as well as a prototype 1 MEV (million electron volts) electron microscope. We do not consider it advisable or warranted to render a determination with respect to the equivalency of scientific value of any prototype instrument.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12916; Filed, Nov. 1, 1967; 8:45 a.m.]

RUTGERS STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68-00013-65-46040. Applicant: Rutgers—The State University, New Brunswick, N.J. 08903. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-200. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

Our intended uses of the requested apparatus are to study the morphology, the structure, and the nature of defects in crystals of both metals and polymers. By use of the 200 KV electron microscope, we hope to obtain new information about structure, and changes in structure, produced by various types of external agencies, such as applied stress, radiation, annealing, crystallization conditions, etc. * * *

We expect to use the new electron microscope in connection with many of the research projects which are currently under investigation by our faculty and our graduate students. Some of these are as follows:

(1) Study of Fatigue of Metal Crystals * * *.

(2) Study of Single Crystals of Polymers * * *.

(3) Study of Precipitation-Hardened Titanium Alloys * * *.

(4) Study of Relaxation Behavior and Structure in Polymers and Related Materials * * *.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the foreign article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified maximum accelerating voltage of 200 kilovolts. The only comparable domestic instrument is the Model EMU-4 manufactured by the Radio Corporation of America (RCA), which has a specified maximum accelerating voltage of 100 kilovolts. The

higher the available accelerating voltage, the greater is the penetrating power of the electron beam and, concomitantly, the thicker is the specimen that can be examined under an electron microscope. We are advised by the National Bureau of Standards (NBS) (memorandum dated Sept. 28, 1967), that the greater penetration possible with the higher accelerating voltages and, therefore, the use of thicker specimens, makes the differences in accelerating voltages pertinent to the purposes for which the foreign article is intended to be used. We therefore find that the RCA EMU-4 model is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commence knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12917; Filed, Nov. 1, 1967; 8:45 a.m.]

YOUNGSTOWN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00088-00-46040. Applicant: Youngstown University College of Engineering, Youngstown, Ohio 44503. Article: Electron Microscope Accessories. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: These accessories will be used for Model JEM-7 electron microscope which is used for metallurgical research. Comments: No comments have been received with respect to this application. Decision: Application approved for the following articles listed by the applicant in reply to Question 4 of the application: AHT-3 heating accessory for transmission, AI-3 tilting accessory, AD-2 high resolution diffraction accessory, AR-3 reflection accessory, AT tensile deformation accessory, and AHC high resolution electron diffraction hot stage. No instrument or apparatus of equivalent scientific value to any of these articles, for the purposes for which such articles are intended to be used, is being manufactured in the United States. Application denied without prejudice to its resubmission with respect to the JEE-4B vacuum evaporator, for reasons indicated below. Reasons: (1) The articles listed above, other than the JEE-4B vacuum evaporator, are accessories for a JEM-7 electron microscope made in Japan, which is now in the possession of the applicant. The accessories, when their uses are required, are attached to the JEM-7 electron microscope and function integrally with this instrument. The Department of Commerce knows of no domestic manufacturer which produces comparable accessories which fit the JEM-7 electron microscope. We therefore find that no instrument or apparatus of equivalent scientific value to the foreign articles (other than the JEE-4B vacuum evaporator), for the purposes for which such articles are intended to be used, is being manufactured in the United States.

The JEE-4B vacuum evaporator is an apparatus for preparing metallurgical specimens for examination with any electron microscope. This apparatus functions independently of the electron microscope for which the specimen is being prepared. It is not necessary to the purposes for which the specimen is being prepared, that the vacuum evaporator be manufactured by the manufacturer of the electron microscope under which the specimen will be examined.

The Department of Commerce knows of at least one domestic manufacturer who produces an apparatus comparable to the JEE-4B. The application for duty-free entry of the JEE-4B vacuum evaporator is denied without prejudice to resubmission, in order to afford the applicant an opportunity to state the basis for the belief that no instrument or apparatus of equivalent scientific value to the JEE-4B vacuum evaporator, for the purposes for which this article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12918; Filed, Nov. 1, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE FOR CIVIL RIGHTS; REVIEWING AUTHORITY (CIVIL RIGHTS)

Establishment and Delegation of Authority

Establishment of Reviewing Authority (Civil Rights); Delegation of Authority to Reviewing Authority (Civil Rights), to the Assistant Secretary for Administration, and to the Director, Office for Civil Rights. Part 2 of the Statement of Organization and Delegations of Authority of the Department of Health, Education, and Welfare, entitled "Office of the Secretary," is hereby amended by adding the following new subparagraphs:

(a) There is hereby established in the Office of the Secretary a Reviewing Authority (Civil Rights) which shall consist of three members to be appointed by the Secretary.

(b) (1) There is hereby delegated to the members of the Reviewing Authority (Civil Rights) in connection with the administration of the provisions of Part 80 ("Nondiscrimination In Federally-Assisted Programs of the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964") of Title 45 of the Code of Federal Regulations (45 CFR Part 80), authority to carry out the responsibilities described in 45 CFR 80.10(a)-(d), in addition to which they shall have the function and duty of designating hearing examiners and setting the time and place of hearings pursuant to 45 CFR 80.9(b).

(2) The functions and duties of the Reviewing Authority (Civil Rights) herein delegated may be exercised by a single member of the Authority, except that all final decisions of the Reviewing Authority (Civil Rights) shall be concurred in by at least two of the members thereof.

(3) Prior to the appointment of any member of the Reviewing Authority (Civil Rights) or in any other instance where no member thereof is available, the functions and duties herein delegated (except the rendering of final decisions) may be exercised by the Assistant Secretary for Administration.

(c) There are hereby delegated to the Director, Office for Civil Rights, all functions and duties vested in the responsible Department official pursuant to 45 CFR Part 80, except those relating to the designation of hearing examiners and the setting of the time and place of the hearing under 45 CFR 80.9(b). The authority delegated to the Director, Office for Civil Rights, may be redelegated to any employee of the Department of Health, Education, and Welfare.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67-12968; Filed, Nov. 1, 1967; 8:49 a.m.]

STATEMENT OF ORGANIZATION AND FUNCTIONS AND DELEGATIONS OF AUTHORITY

Purpose and Scope

The Statement of Organization and Functions and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended to add in Part I "General", Chapter 1-940 as follows:

CHAPTER 1-940—DEPARTMENT RESPONSIBILITIES RELATED TO THE ADMINISTRATION OF THE CIVIL RIGHTS ACT AND EXECUTIVE ORDER 11246

Sec.
1-940.00 Purpose and scope.
1-940.10 Department policy and distribution of responsibility.

SEC. 1–940.00 *Purpose and scope.* This chapter sets forth the Department's policy and distributes responsibility for administering the Civil Rights Act of 1964 and EO–11246.

SEC. 1–940.10 *Department policy and distribution of responsibility.* (a) Title VI of the Civil Rights Act of 1964 prohibits discrimination on account of race, color, or national origin in any program or activity receiving Federal financial assistance. It is the policy of the Department to administer the provisions of Title VI with a full appreciation that it represents a far-reaching national policy. It is recognized that the requirements of the Civil Rights Act are an integral and essential part of every applicable program in the Department. Each operating agency is responsible for seeking and selecting program policies and procedures which can assist in achieving affirmatively the objectives of the Civil Rights Act.

(b) The Office for Civil Rights is responsible for the implementation and enforcement of Title VI including all investigations, negotiations, and compliance activities.

(c) The Office of the General Counsel is responsible for all matters relating to legal activities, including conduct of administrative enforcement proceedings and court litigation with such assistance of the Office for Civil Rights as needed.

(d) The Office of Education is responsible for the administration of Title IV of the Civil Rights Act of 1964.

(e) The Reviewing Authority (Civil Rights) which consists of three members appointed by the Secretary is responsible for reviewing decisions of Hearing Examiners on Title VI compliance cases. Cases are referred by the Hearing Examiner or on the basis of exceptions filed by parties to the proceedings. In each case reviewed, the Reviewing Authority shall render a final decision. This decision may be reviewed by the Secretary at his discretion.

(f) Part I of Executive Order 11246 relates to nondiscrimination in Government employment and requires the establishment and maintenance of a positive program of equal employment opportunity. Civil Service Commission regulations require the designation of Departmental Equal Employment Opportunity Officers. The Assistant Secretary for Administration serves in this capacity for the Department, coordinates the activities of the operating agencies in fulfilling their equal employment responsibilities and serves as liaison with Civil Service Commission.

(g) Parts II and III of Executive Order 11246 relate to nondiscrimination in employment by Government contractors and subcontractors and to nondiscrimination provisions in federally assisted construction contracts respectively. The Director, Office for Civil Rights, serves as the Department's Contract Compliance Officer and as Liaison with the Office of Federal Contract Compliance. The Director shall designate the responsibilities of the operating agencies in this area.

Dated: October 26, 1967.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 67–12969; Filed, Nov. 1, 1967; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 18996]

BONANZA AIRLINES, INC., ET AL.

Merger; Notice of Hearing

In the matter of the application of Bonanza Airlines, Inc., Pacific Airlines, Inc., and West Coast Airlines, Inc., for approval of merger.

Notice is hereby given; pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 401(h), 408, and 412 thereof, that the above-entitled proceeding is hereby assigned for hearing on November 15, 1967, at 10 a.m., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

Without limiting the scope of the issues raised by the pleadings in this proceeding, particular attention will be directed to the following matters:

1. Whether the proposed merger will not be consistent with the public interest or the conditions of section 408 will not be fulfilled.

2. What terms, conditions, or modifications will be required in connection with any approval of the merger.

3. Whether the merger will result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the merger.

For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices entered herein, the documents filed by the parties, and the examiner's report of prehearing conference served October 17, 1967, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than the parties of record desiring to be heard in this proceeding shall file with the Board on or before November 10, 1967, a statement setting forth the issues of fact or law raised by this proceeding which he desires to controvert.

Dated at Washington, D.C., October 27, 1967.

[SEAL] RALPH L. WISER,
Hearing Examiner.

[FR. Doc. 67–12951; Filed, Nov. 1, 1967; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 67–1132]

BROADCAST OF STATEMENTS REGARDING STATION'S LICENSED LOCATION

Examples of Application

In Docket No. 17145,[1] §§ 73.117 and 73.287 of the Commission's rules and regulations are amended by adding new paragraph (g) thereto as follows:

(g) A licensee shall not in station identification announcements, promotional announcements or any other broadcast matter either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license.

Section 73.652 of the rules is amended by adidng a new paragraph (c) thereto which is identical to the above except for the substitution of the phrase "its audience" for "the station's listeners" in line 3.

Following are examples illustrating the application of the rule to certain kinds of broadcast statements, whether or not broadcast at the time at which station identification is required:

1. Station XXXX's licensed location is Central City. It broadcasts an announcement: "This is Station XXXX, Central City," or otherwise refers to its location as in Central City.

Ruling: Such statements comply with the rules.

2. Station XXXX has been granted authority by the Commission to use dual-city identification. It broadcasts an announcement: "This is Station XXXX, Central City and Nearby City."

Ruling: The announcement complies with the rules, assuming that the named cities are those specified in the dual-city authorization.

3. Station XXXX is licensed to a suburban community, Suburbia, but also provides primary coverage to substantially all of the adjacent metropolitan area. It broadcasts an announcement: "This is XXXX, Suburbia, serving the greater Principal City area."

Ruling: The announcement complies with the rules. Similarly valid announcements, provided the station's coverage data support the claims, might be:

"Station XXXX, Millville, serving the Green River Valley."

"Station XXXX, Millville, serving Millville, Rushville and Oakville."

"Station XXXX, Millville, serving the Tri-City area."

4. Station XXXX is licensed to Central City only. It broadcasts an announcement: "Station XXXX, serving Central City—Nearby City."

[1] F.R. Doc. 67–12952 in Rules and Regulations Section, *supra.*

Ruling: The announcement violates the rule because it appears designed to lead listeners to believe that XXXX has been authorized to identify with Nearby City as well as Central City.

5. Station XXXX is licensed to Suburbia. It broadcasts an announcement either at the time for station identification or at any other time: "This is XXXX, covering the greater Principal City area."

Ruling: The announcement violates the rule, since it appears designed to lead listeners to believe that XXXX is licensed to Principal City rather than Suburbia.

6. Station XXXX correctly identifies itself as located in Suburbia at the times specified in the rules for mandatory station identification, but at other times refers to its location as "Here in Principal City" or it makes other references which would be inconsistent with the station's assignment to Suburbia.

Ruling: Such statements and references violate the rules, since they attempt to lead listeners to believe that XXXX has been assigned to a city other than that specified in its license.

7. Station XXXX is licensed to Suburbia. It broadcasts public service announcements not only for organizations located in Suburbia but for those located in Principal City as well.

Ruling: The mere broadcasting of public service announcements or other program matter relating to Principal City or any other city is not a violation of the station identification rule. However, the primary responsibility of XXXX is to serve Suburbia.

8. Station XXXX is licensed to Suburbia. At the times specified in the rules for mandatory station identification, it gives its call letters and licensed location, but at other times it broadcasts such statements and references as the following:

"In the air, everywhere, over Principal City."

"This is XXXX, a symphony of sound designed for Principal City."

"This is XXXX with enchanting music for Principal City, the world's most enchanting city."

"XXXX, the tiger of Principal City radio."

"Principal City's best music station."

"From the good guys of Principal City Radio."

Ruling: Since such announcements "either lead or attempt to lead the station's listeners to believe that the station has been assigned to a city other than that specified in its license," they violate the rule.

9. Station XXXX, licensed to Suburbia, broadcasts announcements: "Station XXXX, Suburbia, in the air everywhere over Principal City."

Ruling: Although the station's licensed location is given, the announcements appear designed to create the impression that XXXX is licensed to both cities or, indeed, to Principal City alone, and therefore violate the rule. Such announcements are to be distinguished from those recited in Example 3, since the areas there described as being served included the city specified in the station's license.

10. Station XXXX, licensed to Suburbia, broadcasts many "vignettes" referring to places or historical events associated with Principal City. The wording of the "vignettes" makes it evident that they are designed to create the impression that XXXX is assigned to or located in Principal City.

Ruling: This is a violation of the rule.

Adopted: October 11, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12953; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket Nos. 17761, 17762; FCC 67M-1831]

CITY OF BROWNSVILLE, TEX., AND HEMPHILL FLYING SERVICE

Order Continuing Hearing

In re applications of City of Brownsville, Tex., Docket No. 17761, File No. 139-A-L-77; E. W. Hemphill, doing business as Hemphill Flying Service, Docket No. 17762, File No. 133-A-L-77; for aeronautical advisory station to serve the International Airport, Brownsville, Tex.

As a result of an agreement reached at a prehearing conference held this date: *It is ordered,* That the hearing presently scheduled for December 27, 1967, be, and the same is, hereby continued to a date to be set by subsequent order.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12956; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket Nos. 17565, 17566; FCC 67M-1825]

CORINTH BROADCASTING CO., INC., AND RADIO CORINTH

Order Continuing Hearing

In re applications of the Corinth Broadcasting Co., Inc., Corinth, Miss., Docket No. 17565, File No. BPH-5675; Elbert A. White, III, and Charles A. Weeks, doing business as Radio Corinth, Corinth, Miss., Docket No. 17566, File No. BPH-5732; for construction permits.

The Hearing Examiner having under consideration a motion for rescheduling hearing dates filed by Radio Corinth on October 20, 1967;

It appearing that the moving party has secured new legal counsel who needs additional time for preparation and that the other parties have consented to the request;

It is ordered, That the motion for rescheduling filed by Radio Corinth is granted and the following dates are rescheduled:

Exchange of written exhibits from November 6 to December 8, 1967;

Notification of witnesses from November 20 to December 22, 1967;

Commencement of hearing from December 4, 1967 to January 16, 1968.

Issued: October 27, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12957; Filed, Nov. 1, 1967; 8:48 a.m.]

[1] Commissioner Bartley absent.

[Docket No. 17722; FCC 67M-1816]

FARNELL O'QUINN

Order Continuing Hearing

In re application of Farnell O'Quinn, Statesboro, Ga., Docket No. 17722, File No. BP-17351; for construction permit.

Pursuant to a prehearing conference as of this date: *It is ordered,* That the preliminary exchange of engineering exhibits shall be accomplished on or before November 15, 1967, and the final exchange of engineering exhibits and lay exhibits shall be accomplished on or before December 1, 1967;

It is further ordered, That the date for the notification of witnesses desired for cross-examination shall be on or before December 11, 1967, and further, that the hearing now scheduled for December 5, 1967, be and the same is hereby rescheduled for December 18, 1967, 10 a.m. in the Commission's Offices, Washington, D.C.

Issued: October 26, 1967.

Released: October 27, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12958; Filed, Nov. 1, 1967; 8:48 a.m.]

[Docket Nos. 17575, 17576; FCC 67R-459]

TRI-CITIES BROADCASTING CORP. AND PALMER-DYKES BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In re applications of Tri-Cities Broadcasting Corp., Gate City, Va., Docket No. 17575, File No. BPH-5654; Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co., Kingsport, Tenn., Docket No. 17576, File No. BPH-5701; for construction permits.

1. This proceeding involves the applications of Tri-Cities Broadcasting Corp. (Tri-Cities) and Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co. (Palmer-Dykes), both seeking an authorization for a new FM broadcast station in their respective communities of Gate City, Va., and Kingsport, Tenn. By Order, FCC 67-791,

released July 18, 1967, the mutually exclusive applications were designated for a hearing under issues including, inter alia, a section 307(b) issue, and a contingent comparative issue. Presently before the Review Board is a motion to enlarge issues, filed August 10, 1967, by Palmer-Dykes seeking the addition of a financial, adequacy of staff, site availability, and Suburban issues against Tri-Cities, as well as the addition of comparative efforts and comparative programing issues.[1] The requests will be treated seriatim.

FINANCIAL ISSUE

2. In its application, Tri-Cities estimates construction costs of $13,122.84 and first year operating expenses of $7,972, totaling $21,094.84. To meet these expenditures, the application indicates that Tri-Cities has available the following sources of funds: (a) Deferred equipment credit from the Collins Radio Co.; (b) a loan from Nancy Shaffer, a 50 percent stockholder; (c) revenues produced by WGAT–AM;[2] and (d) estimated revenues from the first year of operation. Palmer-Dykes objects to both the estimated costs and the availability of funds from the sources specified.

3. To support its allegations with regard to the cost estimates of Tri-Cities, Palmer-Dykes points out that Tri-Cities' application contains no breakdown of the individual items comprising the operating budget for the first year of operation; that the estimated equipment costs ($12,646) are inconsistent with the total cost stated in the Collins letter ($18,073.88); and that, contrary to paragraph 1(b) of the application form, the basis of the applicant's cost estimates is unspecified. Petitioner further contends that the operating costs are substantially understated in light of the amount of unduplicated programing proposed in a recent amendment by Tri-Cities.[3]

4. The Broadcast Bureau, viewing Tri-Cities' total estimated equipment cost of $13,122.84 as low when compared to the $18,073.88 figure stated in the Collins letter, and the applicant's proposed reliance on WGAT–AM as suspect in light of the amount of unduplicated programing and the size of the proposed staff, recommends addition of the issues pertaining to the estimated costs of construction and first year of operation.

5. In its opposition, Tri-Cities submits a detailed breakdown of its first year cost of operation[4] and an itemized list of the equipment it will obtain from Collins Radio Co. at a cost of $12,087.[5] In reply, Palmer-Dykes reiterates the contention that the construction and operating expenses are underestimated. It alleges that the equipment proposal does not contain allocations for: (a) Remote equipment for the proposed play-by-play of local and national sporting events; (b) the emergency power generating equipment proposed by the applicant; and (c) the additional equipment necessary so that Tri-Cities can participate in the Virginia Secondary Defense Network. Palmer-Dykes further contends that the amount allotted for labor costs (see footnote 4(a), supra) is inadequate to cover the cost of a new full time employee plus the part time use of the six employees of WGAT–AM; that the operating budget refers to the original proposal and not the 100 hours of unduplicated programing (see footnote 3, supra); and that the budget does not include other necessary expenses such as pre-operational costs, legal and engineering expenses, insurance, taxes, workmen's compensation and supplies.

6. The Review Board is unable on the basis of the pleadings before it, to ascertain with a reasonable certainty Tri-Cities' equipment costs and its first year's operating expenses. Tri-Cities' itemization of equipment costs, as pointed out in the reply pleading, does not include allocations for the equipment necessary to effectuate the proposals made in its amended exhibits. Nor has the applicant submitted a realistic estimate of its first year's operating expenses. Allocations for preoperational costs,[6] legal and engineering expenses, insurance, taxes, workmen's compensation, and supplies have been omitted. Also, the Review Board cannot accept the applicant's unsupported contention that the increase in the amount of unduplicated programing "will not appreciably affect estimated first year cost of operation." This statement appears unrealistic in light of the applicant's prior statement that "It is our hope and plan that an improvement of FM revenues will permit a decrease in duplicated programs sometime after the first complete year of operation." Moreover, Tri-Cities has not indicated whether the unduplicated programs will be live or taped; or provided any other details to support the allegation that no increased expense would result. See Associated Television Corp., FCC 66R–136, 7 RR 2d 480. While a general requirement that applicants show the basis for their estimates of operating costs has not been imposed under the Ultravision standard, "if, however, the estimate of operating costs is unrealistic, or if it is contested, then a detailed breakdown of the estimate will be required." Suspension of Policy and Institution of Inquiry or Rulemaking Concerning the Ultravision Standard, FCC 67–812, 9 FCC 2d 26, 28. Thus, the Review Board will add an issue to determine the basis of Tri-Cities' estimated costs of construction and its first year of operation.

7. The application of Tri-Cities indicates that the following sources of funds are available to demonstrate that the applicant is financially qualified: (a) Deferred equipment credit in the amount of $18,173.88; (b) loan or loans from Nancy Shaffer;[7] (c) revenues produced by WGAT–AM; and (d) estimated revenues of $10,260 from the first year of operation. Palmer-Dykes alleges that the letter of deferred credit is unacceptable since it is subject to a condition precedent;[8] that the loan of $4,000 filed as an amendment on February 27, 1967, is not supported by a financial statement; and that it is not possible to ascertain what part, if any, is to be repaid during the first year of operation since the terms of repayment are not specified. Petitioner further alleges that Tri-Cities has not

[1] Other pleadings before the Board for consideration are: (a) Broadcast Bureau's comments, filed Sept. 6, 1967; (b) opposition, filed Sept. 6, 1967, by Tri-Cities; and (c) reply to oppositions, filed Sept. 18, 1967, by Palmer-Dykes.

[2] Tri-Cities is the licensee of WGAT–AM in Gate City, Va.

[3] Tri-Cities' petition for leave to amend was filed July 7, 1967, and an amendment thereto was filed Aug. 10, 1967. By order, FCC 67M–1511, released Sept. 13, 1967, the Hearing Examiner granted the petition as amended. The accepted amendment decreases the amount of proposed duplicated programing from 76 hours to 26 hours and 50 minutes out of the applicant's 126-hour total weekly FM operation. The number of unduplicated hours was thereby increased from 50 to approximately 100.

[4] Tri-Cities' estimate of first year cost of operation is:

(a)	Labor cost (in addition to present WGAT–AM staff)	$3,218.64
(b)	Utilities	648.00
(c)	Tube and parts replacement	300.00
(d)	Music license fees	346.00
(e)	Lease of land	75.00
(f)	Repayment on Collins conditional sales contract (including interest)	3,384.36
	Total	7,972.00

[5] Tri-Cities explains the disparity between equipment costs reflected in the Collins letter and its present estimate by submitting that several items included in calculating the $18,073.88 figure were deleted and that only the itemized equipment will be obtained from Collins Radio Co.

[6] Palmer-Dykes alleges that a 2-month preoperational period is necessary before Tri-Cities begins its FM operation. In its opposition pleading, Tri-Cities did not respond to this allegation, and has submitted a repayment figure based upon a 12-month period. Since it is clear from the nature of the proposed station (remote controlled) that a preoperational period must be utilized for testing purposes and since the applicant did not expressly contest the reasonableness of the length of the period alleged by the petitioner, the Board will consider 2 months as the preoperational period. Since the period of repayment for Collins equipment commences upon receipt of said equipment (see paragraph 9, infra), a preoperational expense of at least $564.06 would be incurred, which expense is not reflected in Tri-Cities' operating budget. In its itemization of "other items" (a category in its equipment allotments), Tri-Cities has provided $559 for "contingencies and incidental expenses not having been paid". However, this contingency fund is inadequate to satisfy even the preoperational expense for the Collins equipment, not to mention the unspecified costs for professional fees, mobile equipment, nontechnical studio furnishings, etc. which should be included in this category (see Form 301, section III, par. 1(a)), or the other omitted items.

[7] A letter of commitment for a $3,500 loan from Mrs. Shaffer was filed on Feb. 2, 1967. On Feb. 27, 1967, a second commitment letter for a $4,000 loan was filed.

[8] While originally stating in its application that $18,073.88 was the amount of deferred credit, Tri-Cities has indicated in its pleading that the Collins Radio Co. will furnish and finance $12,037 or less in equipment items. See footnote 5, supra.

indicated the extent of the funds available from the revenues of WGAT–AM, nor has it demonstrated that WGAT–AM is capable of providing any funds in light of the fact that it has experienced an overall loss of $1,586.52 for the period of its operation. Finally, petitioner alleges that Tri-Cities' estimate of first year revenues ($10,260) is unsupported and cannot be accepted.

8. In opposition, Tri-Cities contends that the condition precedent contained in the credit commitment letter is merely customary language in a form letter; that two loan commitments totaling $7,500 are available from Mrs. Nancy Shaffer; that from March 29, 1965, through October 31, 1966, the operation of WGAT–AM has produced a net income of over $14,000 which is available to Tri-Cities; and that the operating loss of WGAT–AM is attributable to the prior owners of the station. The applicant further alleges that all profits, both present and future, derived from the operation of WGAT–AM will be available for the support of its FM operation. Finally, Tri-Cities alleges that its estimate of revenues is based upon broadcast experience in the Gate City market as evidenced by its operation therein of WGAT–AM. The Broadcast Bureau recommends the addition of an issue to ascertain the availability of the funds necessary to Tri-Cities to construct and operate its proposed FM station and a contingent issue to inquire into the basis of Tri-Cities' estimated revenues if this source is utilized by the applicant.

9. The Review Board agrees with the petitioner and the Broadcast Bureau that the manufacturer's letter of credit is not, in its present form, acceptable. The letter expressly states that the manufacturer's willingness to provide the deferred credit arrangement is "contingent upon the receipt of information indicating a satisfactory financial condition." Although letters of credit usually reserve the right to future review of an applicant's financial condition, the wording of these reservations ordinarily reflects, either expressly or by implication, that the manufacturer has already examined and is satisfied with the applicant's present financial condition. Such a reservation does not raise a substantial doubt as to the availability of the credit. However, a similar implication cannot be gleaned from the letter here in dispute. Rather, the only reasonable inferences raised by the wording of this letter are either that the manufacturer has not as yet reviewed the applicant's financial status, or, that it has done so and has not found the information adequate for the issuance of the manufacturer's usual standard letter of credit.[8a]

10. An ambiguity exists as to whether the loan commitment of Mrs. Nancy Shaffer, filed February 27, 1967, is a separate and distinct commitment to loan an additional $4,000, or whether it merely increased the amount pledged in a prior $3,500 loan commitment submitted February 2, 1967. Since it is incumbent upon the applicant to submit "proof that adequate funds are available and committed to the proposed station" Ultravision Broadcasting Company, 1 FCC 2d 544, 5 RR 2d 343 (1965); and since Tri-Cities, aware of the ambiguity, did not submit an affidavit or other evidence clarifying Mrs. Shaffer's intentions as it could have done in its opposition pleading, the Review Board must read the second commitment letter as superseding the first. Mrs. Shaffer's balance sheet, dated December 1, 1966 (submitted in support of the first loan commitment), indicated that she had $17,450.75 in liquid assets, $69,800 in nonliquid assets and a net worth of $56,806.75. Tri-Cities states in its opposition pleading, that an updated balance sheet was not submitted with the loan agreement filed February 27, 1967, because there was no substantial change in Mrs. Shaffer's financial condition. Since the balance sheet indicated a net worth of almost $57,000, and since the second loan agreement was filed less than a month after the balance sheet was submitted, the Review Board finds that a $4,000 loan commitment is available to Tri-Cities to offset its estimated costs of construction and first year of operation.[9] See Bay Broadcasting Co., FCC 67R–36, 9 RR 2d 344; and Louis Prado Martorell, FCC 67R–67, 9 RR 2d 509.

11. The Board is unable to accept the availability of the $14,064.30 in past profits or the unspecified present and future profits of WGAT–AM. Tri-Cities' undated balance sheet which was submitted with its application on December 14, 1966, shows current assets of $10,124.59 against current liabilities of $7,708.80; and total assets of $41,461.64 against total liabilities (without consideration of stockholders equity) of $43,048.22. The balance sheet does not reflect the $14,064.30 sum Tri-Cities claims it has available even though Tri-Cities has maintained that said sum was earned from March 29, 1965, through October 31, 1966. Nor does Tri-Cities' application reflect that this sum is on deposit in a bank or other depository. In view of the foregoing, Tri-Cities' statement that it "has had a net income from its formation in March 29, 1965, through October 31, 1966, of $14,064.30" is unacceptable absent a more detailed showing of the operating revenues and expenses of WGAT–AM for this period. Moreover, without an explanation of what has happened to the $14,064.30, we are unable to credit Tri-Cities with any specific amount for the present and contemplated profits of WGAT–AM. See Sawnee Broadcasting Co. (WSNE), FCC 66–398, 7 RR 2d 405. In view of the foregoing, we find that Tri-Cities has established the availability of only $4,000 (the Shaffer loan) and an issue inquiring into the amount of funds Tri-Cities has available is therefore required.

12. In Ultravision, supra, the Commission stated that if an applicant relies upon estimated first year revenue to demonstrate its financial qualifications, it must make a "convincing evidentiary showing that the available and committed funds will be supplemented by sufficient advertising or other revenue." Additionally, "In those instances where operation during the first year is dependent upon estimated advertising revenues, the applicant will be required to establish the validity of the estimate." It is therefore incumbent upon the applicant to fully disclose the factors which were considered in arriving at the estimated figure for only then can the Commission judge whether the figure is realistic and whether it has a sufficient foundation in fact. It is evident that under the Ultravision standard, Tri-Cities has not sustained its burden.[10] See KXYZ Television, Inc., FCC 67R–294, 10 RR 2d 681. It is Tri-Cities' personal opinion based upon past AM broadcasting experience in the area that $10,260 is reasonably available to its FM operation from the sale of spot announcements and the sponsorship of sporting events. However, the applicant has not demonstrated that this "experienced" opinion is predicated upon any detailed analysis of retail sales, population growth, employment, advertisement commitments and other objective factors of the Gate City market. See Lunde Corp., FCC 66R–360, 5 FCC 2d 26; Gordon Sherman, FCC 66R–260, 8 RR 2d 196. Consequently, the Review Board concludes that a contingent financial issue inquiring into the basis of Tri-Cities' estimated revenues is warranted.

STAFFING

13. Palmer-Dykes requests the addition of an adequacy of staff issue. In support of its request, petitioner alleges that the size of the staff of WGAT–AM,

[8a] While it may be true, as Tri-Cities contends, that the subject letter is a form letter, and that the Commission's staff on the processing line has not always objected to this form, Tri-Cities has neither alleged nor shown that the format of subject letter is the "usual" letter used by manufacturers in most instances.

[9] Petitioner has contended that the loan agreement does not contain the terms of repayment. However, terms of repayment are not necessarily relevant to the question of reasonable assurance of the availability of the amount pledged. They are important in ascertaining the applicant's first year's operating expenses. Since an issue has been specified as to the estimated cost of operation (see para. 6, supra), evidence concerning the terms of repayment can be adduced thereunder. In this regard, the Review Board rejects as unreasonable Tri-Cities' argument that no terms of repayment are specified since "no repayment is required." Both agreements are entitled "Loan Agreement" and each states Mrs. Shaffer "agrees to loan." In view of this language, the Board must conclude that the agreements evidence a loan, not a gift; and a loan implies repayment.

[10] While Tri-Cities has not expressly indicated that it will rely upon revenues, its present financial proposals suggest that it may have to do so to meet its initial construction costs and first year's operating expenses. Thus, the Review Board, prompted by petitioner's request, will examine the pleadings to ascertain whether the anticipated revenues of $10,260 are adequately substantiated in accordance with the Ultravision standard. See Royal Broadcasting Co., Inc. (KHAI), FCC 66R–333, 8 RR 2d 639; Chicagoland TV Co., FCC 65R–350, 1 FCC 2d 1160.

the number of hours the proposed FM station will operate—especially the number of unduplicated hours, and the site of the FM transmitter (the site specified is different from the location of the AM station), raise a substantial question as to whether Tri-Cities' staff is adequate to effectuate its proposed FM operation. The Broadcast Bureau recommends addition of the issue since the amount of unduplicated programming raises a serious doubt as to the adequacy of the staffing proposal.

14. In opposition, Tri-Cities contends that it will operate the FM station by remote control with a total staff of seven for the proposed AM–FM combination and that no additional technical personnel would be required than are now necessary to operate WGAT–AM. To support its proposal, Tri-Cities submits a proposed work schedule demonstrating the individual tasks of the seven employees, the exact time each will perform his tasks and the total number of hours each is employed per week. Petitioner in its reply, alleges that the proposed work schedule does not bear any relationship to Tri-Cities' program duplication proposal nor does it provide for the nearly 100 hours of unduplicated FM airtime and 76 hours of AM airtime.

15. Tri-Cities proposes to handle the technical requirements of the combined AM–FM operation by the use of one engineer (a first-class operator) and five announcers who are also operators (although not first-class operators) pursuant to the requirements of §§ 73.93 and 73.265 of the rules.[11] The submitted schedule reveals that for the period of broadcasting (6 a.m. to midnight, 7 days a week), there will always be an authorized operator on duty and in charge of the FM apparatus. However, our review of the work schedule does not fully dispel the doubts as to Tri-Cities' ability to operate as intended with its proposed staff. An examination of the hours of broadcasting contained in the proposed work schedule indicates that Tri-Cities has provided for 126 hours of airtime. Assuming that Tri-Cities will conduct its unlimited FM operation at the same time it is broadcasting on its AM frequency, the Board finds that Tri-Cities has provided for the required airtime for its AM and FM operations.[12] On the other hand, the Board's examination also reveals that there are numerous occasions when only one employee is present during the periods when Tri-Cities proposes concurrent AM and FM broadcasting; and these occasions are not periods when there is duplicated FM programming.[13] In view of the fact that Tri-Cities has not indicated the nature of the AM and FM programing during these occasions (whether remote play-by-play, live, or taped) and how the broadcasting duties of the sole operator can be performed without effect on the proper operation of the FM broadcast transmitter (see §§ 73.93(d) and 73.263(d) of the rules), a serious doubt arises with respect to the adequacy of the proposed staff. Consequently, the Review Board will grant the requested addition of an adequacy of staff issue so that evidence may be adduced to show how Tri-Cities will effectuate its proposals with its presently contemplated staff.

SITE AVAILABILITY ISSUE

16. To support its request for the addition of a site availability issue, petitioner alleges that there is nothing contained in Tri-Cities' application which would permit a finding that there is a reasonable assurance that the property described as the site for the proposed FM transmitter is available for that use. Palmer-Dykes further contends that the application states that no land is to be acquired for the FM antenna site yet it is silent as to whether Tri-Cities presently owns the property described or whether such land is to be leased pursuant to terms which are also unspecified. The Broadcast Bureau recommends addition of the requested issue in the event Tri-Cities fails to explain the arrangements it has made or plans to make for its FM antenna site.

17. With its opposition, Tri-Cities has submitted an exclusive 2-year option to lease, which was executed May 23, 1966. Pursuant to the option, the lease will have a 10-year term with annual rents of $325 for AM broadcasting and $75 for FM broadcasting. Tri-Cities will also have an option to renew for an additional 10-year term. It is further provided that, if the option is exercised, a right-of-way will be provided for vehicle access; and the $100 already paid as consideration for the option to lease, will be applied to the first-year rents. It is clear from the executed option to lease that Tri-Cities does have reasonable assurance that the proposed site is available to it and no question exists as to its ability to meet the terms of the lease. See 1360 Broadcasting Co., Inc. (WEBB), FCC 63R–306, 25 RR 864; Eastside Broadcasting Company, FCC 63R–528, 1 RR 2d 763.

SUBURBAN ISSUE

18. Petitioner requests the addition of an issue to determine what efforts have been made by Tri-Cities to ascertain the programing needs of Gate City, Va., and the area it proposes to serve and the manner in which it proposes to meet such needs (Suburban issue). In support of its request, Palmer-Dykes alleges that Tri-Cities' application does not disclose the dates when an alleged survey of 34 listed organizations was conducted; the names of the individuals interviewed; and neither the questions asked nor the responses of these unnamed persons. Palmer-Dykes further alleges that certain information furnished in the Tri-Cities application (concerning the ascertainment of programing needs, public affairs program policy, proposed news programs, typical programing and diversification) is identical or substantially similar to that submitted by the applicant in its renewal application for WGAT–AM; that there is no indication that the duplicated programing originally proposed (60.31 percent) is in response to needs uncovered by the alleged survey or is consistent with the needs and interests of the public to be served; and that the amendment reducing the amount of duplication (20.31 percent) and news programing has not been shown by virtue of a new survey or other facts to be in response to changed or new public tastes or interests. Moreover, it contends that such reduction in the amount of duplication questions the bona fides of the efforts to ascertain community needs and interests which formed the basis for Tri-Cities' earlier judgment that 60.31 percent duplication was in the public interest. Finally, in its reply pleading, petitioner contends that the chronology of events indicates that the survey conducted by Tri-Cities pertained to the renewal application of WGAT–AM and that the information adduced thereby

[11] Tri-Cities' standard broadcast Station WGAT operates with a power of 1 kilowatt, nondirectional antenna, daytime. Tri-Cities' proposed FM station would operate with a power of 1.175 kilowatts, nondirectional. In pertinent part, §§ 73.93 and 73.265 of the rules provide (a) that the routine operation of such stations may be performed by an operator holding a valid first-class license, or by operators holding specified lesser class licenses, and (b) that in the latter circumstance a radiotelephone first-class operator or operators shall perform transmitter maintenance and shall be promptly available to correct conditions of improper operation beyond the scope of the authority of the lesser grade operator on duty.

[12] Reading the work schedule in light of our assumption and in conjunction with the amended periods of duplication, the Board finds the following amounts of unduplicated programing during the specified days:

Monday to Friday:	
6 a.m.–6 p.m.	38 hours 20 minutes.
6 p.m.–midnight	30 hours.
Saturday:	
6 a.m.–6 p.m.	8 hours 20 minutes.
6 p.m.–midnight	6 hours.
Sunday:	
6 a.m.–6 p.m.	10 hours 30 minutes.
6 p.m.–midnight	6 hours.
Total	99 hours 10 minutes.

[13] According to the work schedule, on Monday to Friday, employee B is alone from noon to 1 p.m.; on Saturday, employee D is alone from noon to 1 p.m.; and on Sunday, employee B is alone from 6 a.m. to noon with duplication only from 6 a.m. to 7:30 a.m., and employee A is also alone from noon to 6 p.m. Petitioner has not explained how its estimate of 76 hours of AM airtime was reached. Also, Tri-Cities has not contested this figure nor has it supplied the exact number of hours and periods of AM broadcasting of WGAT. The standard broadcast license granted to WGAT authorizes different sign-on and sign-off times depending on the particular month of the year. While this uncertainty as to the exact sign-off time of the AM operation might affect the length of time employees A and B are responsible on Sunday for the concurrent AM and FM operation, the Board believes such is minimal.

was merely reiterated in its FM application.[14]

19. In its opposition, Tri-Cities alleges that as licensee of the sole AM station in its community, it maintains continued contacts therein; that it conducted informal discussions with representative groups, organizations and indiyiduals to ascertain the needs and interests of the community; that from April to June 1966, it conducted a formal survey by personal interviews and the use of a questionnaire; and that the responses of 50 individuals from 34 local representative groups revealed specific community interests, preferences, and needs pursuant to which it formulated its proposed FM programing.[15] Tri-Cities further alleges that the similarity in its FM application to the WGAT–AM renewal application is reflective of identical management applying the same policy and procedure to each station. Finally, it contends that the changes in its programing were in response to continuing informal discussions and a reexamination and analysis of the formal survey by its experienced management which disclosed that reduction in the duplicated programing would be consistent with community needs provided programs similar to those of WGAT–AM are broadcast.[16]

20. The Review Board finds that the requested Suburban issue should be denied. An applicant has the responsibility for a reasonable knowledge of the needs and interests of the community and area it proposes to serve in order to formulate its program proposals in response thereto. The means which an applicant can employ to determine these needs and interests, are personal background, surveys and contacts with local civic and other groups and individuals. Policy Statement on Comparative Broadcast Hearings, FCC 65–689, 5 RR 2d 1901. Herein, Tri-Cities has, in its opposition, made a reasonable showing as to its familiarity with the needs of Gate City and the proposed service area; indicated the manner by which its program proposals reflect the needs it has ascertained; and revealed the methods by which it has ascertained those needs—informal discussions, a formal survey and experience and familiarity in the area obtained from the operation of WGAT–AM and residence in the community. See Logan Broadcasting Co., FCC 67R–282, 10 RR 2d 556; Harriman Broadcasting Co., FCC 66–46, 6 RR 2d 709. On the other hand, petitioner has not made the requisite compelling or persuasive showing that Tri-Cities' proposals do not fulfill the needs and interests ascertained by its efforts.[17] Petitioner's allegation that Tri-Cities' program proposal is in response to a survey conducted for its AM renewal application and not for its FM application is unsupported by affidavits from any of the 34 enumerated organizations which participated in the survey. A motion to add an issue must be based on specfic allegations of fact and mere logical speculation or conjecture is not sufficient. Spanish International Television Co., Inc., FCC 64R–239, 2 RR 2d 853. In addition, the amendment does not necessitate an inquiry into any change in Gate City's needs and interests, or even how such a change, if any, was detected, if there is not a corresponding substantive change in Tri-Cities' programing. See Community Broadcasters, Inc., FCC 67R–398, released September 22, 1967. Tri-Cities has merely reduced the number of hours of duplication by its amendment.[18] It has not changed the type of programing proposed in response to the interests ascertained by its formal survey—a continuation of WGAT–AM programs for FM. See footnote 15(b), supra. Thus, the Review Board concludes from the foregoing that addition of a Suburban issue is unwarranted and the request must therefore be denied.

COMPARATIVE SURVEY ISSUE

21. To support its request for the addition of an issue in respect to the efforts made by each applicant to ascertain the needs and interests in its respective community, Palmer-Dykes alleges that its programming is predicated upon 33 years residence in its proposed service area in addition to specific contacts with 19 separate organizations; that it has listed the particular persons contacted; and that it has given a summary of their views as to how its proposed FM station can be of service to its listeners. Petitioner contends that in view of the foregoing and Tri-Cities' efforts to ascertain the needs and interests of its community (see paragraphs 19 and 20, supra), it has made the requisite prima facie showing of significant differences between the efforts of each applicant. Tri-Cities in opposition, alleges that, if anything, petitioner's allegations reveal that its efforts are inferior to those made by Tri-Cities. The Broadcast Bureau recommends denial of petitioner's request.

22. The Review Board will deny petitioner's request for the addition of a comparative efforts issue. As indicated previously, Tri-Cities conducted from April to June 1966, a formal survey of its proposed service area, interviewing 50 individuals from 34 specified representative organizations. In response to a questionnaire, the persons consulted expressed various opinions relating to the needs and interests of the community and the majority opinions were enumerated in Tri-Cities' opposition pleading wherein the applicant also demonstrated how the formal survey led to several conclusions which shaped its proposed FM programing. The petitioner has not indicated a significant disparity in efforts which should be examined in a comparative hearing.[19] The only oustanding inferiority in Tri-Cities efforts appears to be that Tri-Cities has not specifically identified the 50 representatives of the 34 listed local organizations contacted in its formal survey. This, in and of itself, is not sufficient to warrant the addition of the requested issue.

COMPARATIVE PROGRAMING ISSUE

23. Petitioner seeks the addition of a comparative programing issue contending that there are significant differences justifying a comparative evaluation of the programing proposed by the respective applicants. To support its allegation, Palmer-Dykes submits that it proposes 9.46 percent (13 hours, 35 minutes)

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[14] As indicated by Tri-Cities in its pleadings, the formal survey was conducted during the period of April through June 1966. The renewal application of WGAT–AM was filed approximately 1 month after completion of the survey whereas the application for the FM application was filed 6 months after completion of the survey.

[15] Tri-Cities has listed in its pleading certain majority opinions culled from the survey, such as:

(a) 94 percent believes a balanced format of music, news, talk and information programs would serve area needs best.

(b) 90 percent endorsed a continuation of WGAT–AM programs for FM.

(c) 98 percent believes local and national play-by-play sports coverage would be desired.

(d) 92 percent stated that a 5-minute news program each hour was adequate.

[16] Tri-Cities does not concede that the amount of duplication originally proposed (60.31 percent) was not in response to the public interest. It contends that the surveys did not indicate any preference for or against duplication, but since 90 percent of the respondents endorsed a continuation of WGAT–AM programs for FM (see footnote 15(b), supra), Tri-Cities concluded that the reasonable amount of duplication originally proposed would be in the public interest. Tri-Cities further contends that the amount of news programs originally scheduled provided more than adequate news coverage. However, its reexamination of the survey has indicated that the one 5-minute newscast per hour is not only adequate, but also the maximum allotment permissible if the preferred balanced format is to be continued. See footnote 15, supra.

[17] See Adirondack Television Corp., FCC 66R–400, 8 RR 2d 886; Voice of Middlebury, FCC 66–361, 3 FCC 2d 512, 517, wherein it is stated:

Where, as here, it appears that the applicant has made efforts to ascertain the programing tastes, needs, and interests of the area it proposes to serve and has formulated a program format which, in its judgment, would meet those needs and interests as it has determined them to be, a Suburban issue is not warranted in the absence of a compelling showing that the proposal would not fulfill that function.

[18] In the designation order, the Commission held that evidence regarding program duplication and the benefits to be derived therefrom would be admissible under the comparative issue.

[19] Petitioner's reliance on Chapman Radio and Television Co., FCC 67–234, 7 FCC 2d 213, and Lee Broadcasting Corp., FCC 67R–261, 8 FCC 2d 624, to support its allegation that it has made a prima facie showing of significant differences between each applicant's efforts to ascertain the needs and interests of its respective community, is misplaced. In Chapman, the issue was added where the applicant did not reveal the method employed in contacting 389 organizations or the results obtained and in Lee, the issue was added since the petitioner had contacted more persons; shown a broader diversity among communities and types of leaders contacted; and made a more thorough documentation of the results of the contacts and the manner in which those results were reflected in its program proposal.

of public affairs programing whereas Tri-Cities proposes only 0.40 percent (30 minutes); that it proposes 8.22 percent (15 hours, 25 minutes) to "all other programs, exclusive of entertainment and sports" whereas Tri-Cities proposes 4.63 percent (5 hours, 48 minutes); and that it proposes daily discussion programs whereas Tri-Cities proposes only one 30-minute discussion program. In opposition, Tri-Cities alleges that a comparison is impossible due to petitioner's improper inclusion of a number of programs under the Public Affairs category. The Broadcast Bureau, regarding as minimal the differences in the programing proposals of the applicants upon which petitioner relies, recommends the denial of the requested issue.

24. The Review Board will not enlarge the issues in this proceeding by the inclusion of a comparative programing issue. Palmer-Dykes has not made the persuasive showing required for the inclusion of such an issue. It has not indicated in its pleadings the relationship between its own ascertainment of community needs and interests and the reflection of those needs and interests in substantially greater amounts of time, efforts and resources proposed to be devoted to certain of the categories of programing.[20] Palmer-Dykes has drawn comparisons of the amount of time each applicant has allotted to three categories of programing, but it has not justified its allocations with respect to the program needs and interests of Kingsport, Tenn., nor has it explained how its program proposals are designed to meet these ascertained needs and interests. Consequently, the Review Board will deny the addition of the requested issue.

Accordingly, it is ordered, That the petition to enlarge issues, filed August 10, 1967, by Paul Dykes and Basil J. Palmer, doing business as Palmer-Dykes Broadcasting Co., is granted to the extent indicated below and denied in all other respects; and

It is further ordered, That the issues in the above-captioned proceeding are enlarged as follows:

(a) To determine as to Tri-Cities, the basis of (1) its construction costs, and (2) its estimated operating expenses for the first year of operation;

(b) To determine whether Tri-Cities has available to it funds in the amount necessary to construct and operate for 1 year the proposed FM station;

(c) In the event that Tri-Cities will depend upon operating revenues to meet costs and first year's operating expenses, the basis of its estimated revenues for the first year of operation, whether such estimate is reasonable, and the extent to which net operating revenues may be relied upon to yield necessary funds for the initial construction and 1 year's operating costs; and

(d) To determine on the basis of the evidence adduced under the aforesaid items whether Tri-Cities is financially qualified;

(e) To determine whether the staff proposed by Tri-Cities is adequate to operate its proposed FM station.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof with regard to the issues added herein will be upon Tri-Cities Broadcasting Corp.

Adopted: October 25, 1967.

Released: October 30, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[21]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12959; Filed, Nov. 1, 1967; 8:48 a.m.]

[20] The Commission stated in Chapman Radio and Television Co., supra, that "a proponent of the programing issue should be required to make a prima facie showing that there are significant differences in the programing proposed and should relate his claimed superiority in program planning to his ascertainment of community needs."

[21] Dissenting statement of Board Member Pincock filed as part of the original document. Board Members Berkemeyer and Nelson absent.

FEDERAL POWER COMMISSION

[Docket Nos. RI65-115, etc.]

HAMILTON BROTHERS, LTD., ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates, Permitting Withdrawal of Rate Supplement and Terminating Proceeding [1]

OCTOBER 25, 1967.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-204	Frederic C. and Ferris F. Hamilton d.b.a. Hamilton Brothers, Ltd., 1517 Denver Club Bldg., Denver, Colo. 80202.	24	2	Northern Natural Gas Co. (Carthage, North Richland and Rolla Mississippi Fields, Texas County, Okla.) (Panhandle Area and Morton County, Kans.).	$8,703 21,815	9-25-67	[2] 10-26-67	3-26-68	[3] 12.0 [5] 12.0	[4] [5] [6] 15.0 [5] [6] 17.0	
RI68-205	Standard Oil Co. of Texas, a division of Chevron Oil Co., Post Office Box 1249, Houston, Tex. 77001. Attention: Mr. C. W. Proctor.	2	20	Texas Eastern Transmission Corp. (Gist Field, Newton County, Tex.) (RR. District No. 3).	140	10- 5-67	[2] 11- 5-67	4- 5-68	16.2	[4] 16.4	RI67-85.
	Standard Oil Co. of Texas, a division of Chevron Oil Co.	10	11	Texas Eastern Transmission Corp. (Chevron Field, Kleberg County, Tex.) (RR. District No. 4).	22,559	10- 5-67	[2] 11- 5-67	4- 5-68	16.2	[4] 16.4	RI67-85.

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Respondent filing to first periodic increase under renegotiated contract. Initial rate under renegotiated contract is 14 cents.
[4] Pressure base is 14.65 p.s.i.a.
[5] For gas produced from depths between the base of the Wolfcamp and the Top of the Morrow Series of The Pennsylvanian System (intermediate zone).
[6] Rates of 14 cents (intermediate zone) and 16 cents (deep zone) suspended in Docket No. RI68-115 until Feb. 18, 1968. Respondent has requested that such rate proceeding be terminated and related notice of change (Supplement No. 1) be considered withdrawn.
[7] Subject to a downward B.t.u. adjustment.
[8] For gas produced from depths below the Top of the Morrow Series of the Pennsylvanian System (deep zone).
[9] Periodic rate increase.

Frederic C. and Ferris F. Hamilton, doing business as Hamilton Brothers, Ltd. (Hamilton), request an effective date of October 1, 1967, for their proposed rate increase. Standard Oil Co. of Texas, a division of Chevron Oil Co. (Standard), requests that its proposed rate increase be permitted to become effective on November 1, 1967. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Hamilton and Standard's rate filings and such requests are denied.

Hamilton proposes rate increases from 12.0 cents to 15.0 cents (intermediate zone) and 17.0 cents (deep zone) under their FPC Gas Rate Schedule No. 24. Previously, on August 18, 1967, Hamilton filed proposed increases from 12.0 cents to 14.0 cents and 16.0 cents, respectively, for the sale involved. Such rates were

suspended in Docket No. RI68–115 until February 18, 1968. Hamilton has requested that the instant notice of change be allowed to supersede the previous filing (Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24) and the suspension proceeding in Docket No. RI65–115 be terminated. Since Hamilton's 14.0 cents and 16.0 cents rate increases in Docket No. RI68–115 have not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved, we conclude that Hamilton should be permitted to withdraw Supplement No. 1 to their FPC Gas Rate Schedule No. 24 and the related suspension proceeding in Docket No. RI68–115 be terminated as hereinafter ordered.

Hamilton and Standard's proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61–1. as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for permitting the withdrawal of Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24, and for terminating the related suspension proceeding in Docket No. RI68–115.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 1 to Hamilton's FPC Gas Rate Schedule No. 24 is permitted to be withdrawn and the suspension proceeding in Docket No. RI68–115 is terminated.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated rate supplements.

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 13, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67–12825; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket Nos. G–3072, etc.]

HUMBLE OIL & REFINING CO.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 25, 1967.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1967.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to 18 CFR 2.56, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the applicant indicates in writing that it is unwilling to accept such a condition. In the event applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G–3072 C 9–27–67	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Various Fields in District 4 Area, Tex.	15.0	14.65
G–16218 D 10–16–67	Gulf Oil Corp. (Operator) et al., Post Office Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., acreage in Texas County, Okla.	Uneconomical	----------
G–18728 [1] D 5–19–67	Mobil Oil Corp., Post Office Box 2444, Houston, Tex. 77001.	Transwestern Pipeline Co., Kermit, Keystone, and Emperor Fields, Winkler County, Tex.	(2)	----------
CI62–1522 D 9–29–67	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Northern Natural Gas Co., acreage in Beaver County, Okla.	(2)	----------
CI63–597 C 10–18–67	John Douglas Pitman (Operator) et al., Post Office Box 1937, Hereford, Tex. 79045.	Northern Natural Gas Co., Novi Lime Field, Ochiltree County, Tex.	17.0	14.65
CI64–474 E 10–11–67	Hazel Woodford (successor to A. C. Woodford), 120 N. Spring St., Harrisville, W. Va. 26362.	Pennzoil Co., Grant District, Ritchie County, W. Va.	12.0	15.325
CI64–1244 C 10–9–67 [4]	Humble Oil & Refining Co. (Operator) et al.	Natural Gas Pipeline Co. of America, Sarita et al. Fields, Kenedy County, Tex.	18.0	14.65
CI68–531 A 10–11–67	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Southern Natural Gas Co., Tallahalla Creek Field, Smith County, Miss.	19.0	15.025
CI68–532 B 10–11–67	N. H. Wheless Oil Co., Post Office Box 1746, Shreveport, La. 71102.	United Gas Pipe Line Co., Carthage Field, Panola County, Tex.	(2)	----------

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-533 A 10-11-67	Jas. F. Smith (Operator) et al., Post Office Box 1005, Avonbell Station, Amarillo, Tex. 79106.	Northern Natural Gas Co., acreage in Beaver County, Okla.	[8] 17.0	14.65
CI68-534 A 10-11-67	Cleary Petroleum, Inc., 310 Kermac Bldg., Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Laverne Area, Woodward County, Okla.	[8] 17.0	14.65
CI68-535 A 10-11-67	Cleary Petroleum, Inc.	Arkansas Louisiana Gas Co., Enid Area, Garfield County, Okla.	15.0	14.65
CI68-536 A 10-12-67	Humble Oil & Refining Co.	Michigan Wisconsin Pipe Line Co., Eugene Island Block 183 Field, Offshore, Louisiana.	19.5	15.025
CI68-537 (CI62-1104) F 10-12-67	Butler-Johnson, Inc. (Operator), et al. (successor to Union Producing Co.), Post Office Box 306, Shreveport, La. 71102.	United Gas Pipe Line Co., South Downsville Field, Lincoln and Union Parishes, La.	[7] 18.75	15.025
CI68-538 A 10-12-67	Lake Washington Inc. (Operator) et al., Post Office Box 2566, Houston, Tex. 77001.	Southern Natural Gas Co., Lake Washington Field Area, Plaquemines Parish and Bay St. Elaine Field, Terrebonne Parish, La.	21.25	15.025
CI68-539 A 10-12-67	Pan American Petroleum Corp.	Trunkline Gas Co., Lakeside, South Thornwell and Southwest Lake Arthur Fields, Cameron Parish, La.	21.25	15.025
CI68-540 A 10-16-67	Hugh A. Hawthorne et al., Post Office Box 52429, O.C.S., Lafayette, La. 70501.	Trunkline Gas Co., Iowa Field, Jefferson Davis Parish, La.	21.25	15.025
CI68-541 A 10-16-67	Fair Oil Co., Fair Foundation Bldg., Tyler, Tex. 75701.	Arkansas Louisiana Gas Co., Excelsior Field, Marion County, Tex.	[8] 12.0992	14.65
CI68-542 A 10-16-67	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Consolidated Gas Supply Corp., Sherman District, Boone County, W. Va.	[9] 27.0	15.325
CI68-544 A 10-16-67	Wessely Petroleum, Ltd., 2002 Republic Bank Bldg., Dallas, Tex. 75201.	Pandhandle Eastern Pipe Line Co., Putnam Area, Dewey County, Okla.	[8] 14.0	14.65
CI68-545 A 10-16-67	Stydahar Oil & Gas Co., c/o L. L. Crawford, agent, 116 South Fifth St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Elk District, Barbour County, W. Va.	25.0	15.325
CI68-546 A 10-16-67	Parker Petroleum Co., et al., Post Office Box 1741, Parkersburg, W. Va. 26102.	Consolidated Gas Supply Corp., Parkersburg District, Wood County, W. Va.	25.0	15.325
CI68-547 A 10-16-67	Franconia Oil & Gas Co., c/o A. Burke Hertz, trustee, 210 Little Falls St., Falls Church, Va. 22046.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	25.0	15.325
CI68-548 A 10-16-67	W. C. Pickens, 2000 Fidelity Union Tower, Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., Putnam Area, Dewey County, Okla.	[8] 14.0	14.65
CI68-549 A 10-16-67	S. W. Jack Drilling Co., et al., 518 Allegheny Ave., Avonmore, Pa. 15618.	Consolidated Gas Supply Corp., Sandy Township, Clearfield County, Pa.	27.5	15.325
CI68-550 A 10-12-67	Carl A. Nilsen, c/o James W. George, Esq., George & Kenan, 1365 First National Bldg., Oklahoma City, Okla. 73102.	National Fuels Corp. and Oklahoma Natural Gas Gathering Corp., acreage in Major County, Okla.	12.0	14.65
CI68-551 A 10-16-67	S. W. Jack Drilling Co.	Consolidated Gas Supply Corp., Sandy Township, Clearfield County, Pa.	27.5	15.325
CI68-552 B 10-16-67	Amax Petroleum Corp., Enterprise Bldg., Tulsa, Okla. 74103.	Florida Gas Transmission Co., Bayou-Mallet Field, Acadia Parish, La.	Depleted	-------
CI68-553 B 10-13-67	Mesa Petroleum Co. (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79101.	Phillips Petroleum Co., West Panhandle Field, Moore County, Tex.	Depleted	-------
CI68-554 B 10-13-67	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla. 74102.	Texas Gas Pipe Line Corp., North Port Neches Field, Orange County, Tex.	Depleted	-------

[1] No permanent certificate issued. Temporary authorization granted by Letter Order issued June 16, 1961.
[2] The application states that Mobil has delivered no gas to Transwestern from the acreage committed to the subject contract at depths below the top of the Ellenburger formation and that in view of Transwestern's serious take-or-pay status, Transwestern and Mobil have mutually agreed to the deletion of these deeper formations from their basic contract.
[3] Well is incapable of producing against Buyer's pipeline pressure.
[4] Amendment also provides for increase in contract quantity.
[5] Subject contract covered sale of "excess gas" as defined therein and there have been no deliveries thereunder since August 1957, and it is not anticipated that there will be any future deliveries.
[6] Subject to upward and downward B.t.u. adjustment.
[7] Includes 1.75 cents per Mcf tax reimbursement.
[8] Includes 0.1092-cent tax reimbursement.
[9] Includes 2 cents per Mcf gathering charge.

[F.R. Doc. 67-12826; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket No. RI62-506 [1]]

TENNECO OIL CO. AND CONTINENTAL OIL CO. [2]

Order Accepting Decreased Rate Filing

OCTOBER 25, 1967.

On September 25, 1967, Continental Oil Co. (Continental) tendered for filing a proposed rate decrease, from 23.55 cents to 21.75 cents per Mcf, amounting to $360 annually, for gas sold to Florida Gas Transmission Co. from the Bay Natchez Field, Assumption and Iberville Parishes, La. (South Louisiana). The filing reflects a decrease from a redetermined rate presently being collected subject to refund in Docket No. RI62-506, to a contractually provided for periodic rate. The redetermined rate was applicable only to July 1, 1967, and since such date, the rate, as proposed in the instant filing, reverted to the rate provided for in the contract's escalation provisions. Such rate still exceeds the area increased rate ceiling. The decreased rate filing is set forth in appendix A hereof.

Continental requests that the Commission waive the 30-day statutory notice requirement and accept for filing its proposed rate decrease effective as of July 1, 1967. Since Continental's decreased rate is provided for in the escalation provisions of its contract, we conclude that it would be in the public interest to waive the 30-day notice requirement provided in section 4(d) of the Natural Gas Act and accept for filing Continental's proposed rate decrease effective as of July 1, 1967, subject to refund in the existing rate proceeding in Docket No. RI62-506.

The Commission finds: Good cause exists for accepting for filing Continental's proposed rate decrease, designated as Supplement No. 4 to its FPC Gas Rate Schedule No. 263, effective as of July 1, 1967, subject to the existing rate suspension proceeding in Docket No. RI62-506 and refund obligation related thereto.

The Commission orders: Supplement No. 4 to Continental's FPC Gas Rate Schedule No. 263 is accepted for filing effective as of July 1, 1967, subject to the existing rate suspension proceeding in Docket No. RI62-506 and refund obligation related thereto.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Docket No. RI62-506 is consolidated with the Area Rate Proceeding (South Louisiana Area), Docket Nos. AR61-2, et al.
[2] Formerly Delhi-Taylor Oil Corp.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supp. No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date	¢ per Mcf		Rate in effect subject to refund in docket Nos.
								Rate in effect	Proposed decreased rate	
RI62-506...	Continental Oil Company P.O. Box 2197, Houston, Tex. 77001. Attn: Mr. R. E. Galbreath.	263	4	Florida Gas Transmission Company (Bay Natchez Field, Assumption and Iberville Parishes, Louisiana) (South Louisiana).	$360	9-25-67	[3] 7-1-67	[4] [5] 23.55	[4] [6] 21.75	RI62-506.

[3] The stated effective date is the contractually provided effective date.
[4] Rate decrease from redetermined rate to contractually provided for periodic rate effective for 5-year period commencing July 1, 1967.
[5] Pressure base is 15.025 p.s.i.a.
[6] Subject to a downward B.t.u. adjustment.
[7] Inclusive of 1.75-cent tax reimbursement.
[8] Inclusive of 2.05-cent tax reimbursement.

[F.R. Doc. 67-12827; Filed, Nov. 1, 1967; 8:45 a.m.]

[Docket No. RP67-22]

TENNESSEE GAS PIPELINE CO.

Order Prescribing Procedure and Setting Prehearing Conference

OCTOBER 27, 1967.

By order issued on June 19, 1967, Tennessee Gas Pipeline Co. (Tennessee), a Division of Tenneco Inc., was directed to show cause why it should not make the accounting adjustments therein set forth in accordance with the Commission's Uniform System of Accounts. On September 5, 1967, Tennessee filed its answer to the order to show cause, dealing separately with the matters covered by subparagraphs (a) through (g) and subparagraphs (h) through (m) of the order to show cause.

Subparagraphs (a) through (g) of the order refer to accounting adjustments all of which are related to Tennessee's operation of and accounting in connection with its on-system production properties. In the first part of its answer, Tennessee requests permission to file the necessary applications for Commission approval of a transfer of all of its on-system production properties (with the exception of its Bastian Bay and Ship Shoal properties, the subject of other Commission proceedings[1]) to its affiliate, Tenneco Oil Co. Tennessee also requests that pending Commission disposition of said applications the issues contained in subparagraphs (a) through (g) of the order to show cause be held in abeyance. The Commission has considered the request of Tennessee and has determined to grant Tennessee permission to file the said applications. Following the filing of such applications, notice will issue to interested parties who will then have an opportunity to be heard thereon. By granting Tennessee permission to make the filings referred to, the Commission is not thereby making any determination with respect to the proposal of any of the issues contained in subparagraphs (a) through (g) of the order to show cause.

With its responses to the matters covered by subparagraphs (h) through (m) of the order to show cause, Tennessee requests that those items be disposed of under the shortened procedure provided for in §§ 158.2 through 158.6 of the Commission's regulations under the Natural Gas Act. However, it appears that there may be questions of fact and interpretation which require a hearing. Accordingly, we will provide for such a hearing at which Tennessee, interested parties, State commissions and the Commission's staff will have an opportunity to participate.

We note that the order to show cause was served only upon Tennessee and the appropriate State commissions and Tennessee's answer was served only on the Commission's staff. In order that all interested parties receive notice hereof, we are requiring Tennessee to serve copies of the order to show cause and of the answer upon all its jurisdictional customers and, with respect to the answer, upon the appropriate State commissions.

We will also provide for the filing of notices of intervention and petitions to intervene. United Gas Improvement Co. filed a petition to intervene on June 29, 1967, and the said petition will be ruled upon along with any other petitions which may be filed herein.

We are scheduling a prehearing conference in this order at which the parties, interveners, and staff will have the opportunity to make statements of position and, if possible, to arrive at an acceptable stipulation of facts. If a stipulation on all the facts is not agreed upon at the prehearing conference the examiner will then schedule the hearing herein.

The Commission orders:

(A) Within 10 days from the date of this order Tennessee shall serve copies of the order to show cause and of its answer thereto upon its jurisdictional customers and copies of its answer on the appropriate State commissions.

(B) With respect to the matters covered by subparagraphs (a) through (g) of the order to show cause, Tennessee shall file on or before November 6, 1967, the necessary applications to effectuate the transfer proposal contained in its answer to the order to show cause. Pending such filing and Commission action on said applications, no further action will be taken with respect to the matters covered by the said subparagraphs (a) through (g) of the order to show cause.

(C) Any person who desires to participate as intervener herein, shall, on or before November 24, 1967, file a notice of intervention or petition to intervene with the Secretary of the Commission in accordance with § 1.8 of the Commission's rules of practice and procedure.

(D) A prehearing conference shall be held pursuant to the Commission's rules of practice and procedure in a hearing room of the Commission at 441 G Street NW., Washington, D.C. 20426, on December 18, 1967, commencing at 10 a.m. before a hearing examiner designated to act as the presiding examiner in this proceeding for the purpose of but not limited to affording all interested parties an opportunity to make statements of position and to enter into a stipulation of facts and to take such other steps as may be appropriate to expeditiously determine the issues herein. At the conclusion of the prehearing conference, or as soon thereafter as may be feasible, the presiding examiner shall set the dates for the submission of briefs in the event a stipulation of all material facts is entered into, or, absent such stipulation, the dates for the service of testimony and exhibits by the staff, parties and interveners and the date for commencement of the hearing and cross-examination.

(E) Examiner Arthur H. Fribourg, a duly qualified and appointed hearing examiner, or any officer or officers of the Commission designated by the acting chief examiner for that purpose (see delegation of authority, 18 CFR 3.5(d), etc.), is designated to act as presiding examiner in this proceeding as of the date of the issuance of this order and is authorized and directed in so doing to exercise all of the functions and authority prescribed by the Administrative Procedure Act and the Commission's rules of practice and procedure, including the holding of the above scheduled prehearing conference and such other prehearing conferences as he may deem advisable to expedite the proceeding herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 67-12923; Filed, Nov. 1, 1967; 8:46 a.m.]

[1] Docket Nos. CP66-269 et al., and RI64-129, respectively.

[Project 2246]

YUBA COUNTY WATER AGENCY

Notice of Application for Amendment of License for Partly Constructed Project

OCTOBER 27, 1967.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a, 825r) by Yuba County Water Agency (correspondence to: Colin H. Handforth, Engineer-Administrator, Yuba County Water Agency, County Courthouse, Post Office Box 1569, Marysville, Calif. 95901) for partly constructed Project No. 2246, known as Yuba River Development, located on Yuba River and its tributaries, North Yuba River, Middle Yuba River, and Oregon Creek, in the counties of Yuba, Nevada, and Sierra, Calif.

The application seeks Commission authorization to permit, during reservoir filling, the floating out of logs and heavy clearing debris from precipitous and inaccessible portions of the New Bullards Bar Reservoir area to disposal areas situated within the project boundary, rather than prior to impoundment of reservoir water, as presently required by license Article 41.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may filed is December 11, 1967. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12924; Filed, Nov. 1, 1967; 8:46 a.m.]

FEDERAL MARITIME COMMISSION

SOUTH ATLANTIC & CARIBBEAN LINE, INC., AND TMT TRAILER FERRY, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval By:

Homer S. Carpenter, Rice, Carpenter and Carraway, 618 Perpetual Building, Washington, D.C., and John Mason, Ragan & Mason, 900 17th Street, Washington, D.C.

South Atlantic and Caribbean Line, Inc. (SACL), and TMT Trailer Ferry, Inc. (C. Gordon Anderson, Trustee) (TMT), have entered into a stipulation and agreement, designated DC-30 in which TMT will publish in its freight tariff No. 4, FMC-F No. 5 an increased rate on "Refrigerated Freight, N.O.S." of $975 per 40-foot trailer (including pickup and delivery at loading and discharge points), in lieu of its presently effective rate of $900 per 40-foot trailer, predicated on a dock-to-dock service. The rate will apply between Miami and Jacksonville on the one hand and San Juan, P.R., on the other. TMT will also publish a trailer overload charge of not less than $1 per 100 pounds applicable to that part of the shipment that exceeds 40,000 pounds. Upon the effectiveness of the aforementioned action by TMT, SACL will move to dismiss its complaint in Docket No. 67-44, South Atlantic & Caribbean Line, Inc. v. TMT Trailer Ferry, Inc. SACL had alleged in Docket 67-44 that TMT's rate for refrigerated freight, n.o.s. of $900 per trailer between the ports of Miami and Jacksonville on the one hand and on the other San Juan, P.R., was below a fair and remunerative basis.

The stipulation and agreement provides that nothing therein shall prejudice or limit the rights of either party to make future changes in their respective rates on refrigerated traffic nor prejudice or limit the rights of each other to exercise any available right or action in connection with future changes in rates.

Dated: October 27, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-12960; Filed, Nov. 1, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2167]

BERKSHIRE INDUSTRIES, INC.

Notice of and Order for Hearing on Application To Exempt Proposed Transaction

OCTOBER 25, 1967.

Notice is hereby given that Berkshire Industries, Inc. ("Berkshire"), 360 Lexington Avenue, New York, N.Y., a New Jersey corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the merger of Berkshire and American-Hawaiian Steamship Co. ("American"), a management closed-end investment company registered under the Act, from the provisions of section 17(a) of the Act. All interested persons are referred to the application which is on file with the Commission for a statement of Berkshire's representations, which are summarized below.

Berkshire owns 176,719 out of 194,177 shares (approximately 91 percent) of the capital stock of American. The Board of Directors of Berkshire has adopted a resolution to merge American into Berkshire pursuant to section 14: 12-10 of the New Jersey Corporation Law, and to pay the sum of $275 per share of American to the stockholders thereof, other than Berkshire, upon the surrender of these shares of Berkshire.

Section 14: 12-10 of the New Jersey General Corporation Law permits a New Jersey corporation owning 90 percent or more of the outstanding voting stock of a subsidiary New Jersey corporation to effect a "short form merger" of such subsidiary into itself by the adoption by the parent's board of directors of a resolution setting forth the terms of merger. The merger becomes effective upon the filing of a Certificate of Ownership and Merger with the Secretary of State of the State of New Jersey. The minority stockholders of the subsidiary have the option to accept the price set forth in the directors' resolution or to exercise a right to have their stock appraised, as provided in section 14: 12-6 of the New Jersey Corporation Law.

The application represents that Berkshire's Board of Directors has fixed the price of $275 per share to be paid to the minority holders of American's shares after considering the market value of the stock of American, the value of the assets of American, and appraisals of certain assets and liabilities of American.

Berkshire intends promptly after filing the proposed Certificate of Ownership and Merger, to file an application pursuant to section 8(f) of the Act for an order declaring that American has ceased to be an investment company.

Section 17(a) of the Act, as here pertinent, makes it unlawful for Berkshire, an affiliated person of American, a registered investment company, to sell to or purchase from such company any security, unless the Commission finds, upon application pursuant to section 17(b) of the Act, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching and that the proposed transaction is consistent with the policy of the registered investment company, and with the general purposes of the Act.

It appearing to the Commission that it is appropriate, in the public interest and in the interest of investors that a hearing be held with respect to the application;

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on the 28th day of November 1967, at 10 a.m. in the offices of the Securities and

Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549. At such time, the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission his application as provided by Rule 9(c) of the Commission's rules of practice, on or before the date provided in the rule, setting forth any issues of law or fact which he desires to controvert or any additional issues which he deems raised by this notice and order or by such application. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof, the following matter is presented for consideration without prejudice to its specifying additional matters upon further examination.

(1) Whether the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

(2) Whether the proposed transaction is consistent with the policy of the registered investment company as recited in its registration statement and reports filed under the Act, and

(3) Whether the proposed transaction is consistent with the general purposes of the Act.

It is further ordered, That at the aforesaid hearing, attention should be given to the foregoing matter.

It is further ordered, That Berkshire shall cause a copy of this notice to be mailed to each of the holders of American's securities at their last known address.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid by mailing a copy of this notice and order by certified mail to Berkshire and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER, and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for release.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12933; Filed, Nov. 1, 1967; 8:46 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 30, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 67-12934; Filed, Nov. 1, 1967; 8:46 a.m.]

[812-2203]

IVEST FUND, INC.

Notice of Application for Exemption

OCTOBER 27, 1967.

Notice is hereby given that Ivest Fund, Inc. ("applicant"), 1 State Street, Boston, Mass., an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 6(c) of the Act. Applicant requests an order to permit applicant to enter into a renewed management contract on April 1, 1968, if such action is approved by applicant's shareholders at their annual meeting November 15, 1967. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations which are summarized below.

On March 31, 1967, Ivest, Inc., investment adviser to applicant, became a wholly owned subsidiary of Wellington Management Co., the applicant's principal underwriter and the investment adviser to Wellington Fund, Inc., Windsor Fund, Inc., Exeter Fund, Inc., Exeter Second Fund, Inc., Exeter Third Fund, Inc., and Gemini Fund, Inc. This was accomplished by an exchange of all the issued and outstanding shares of Ivest, Inc., for shares of class B common stock of Wellington. The exchange constituted an assignment which thereby terminated Ivest, Inc.'s, management contract with applicant. Accordingly, a new management contract between applicant and Ivest, Inc., and Wellington Management Co. was entered into effective April 1, 1967, the terms of which were approved by applicant's shareholders at a meeting held on January 25, 1967.

As part of the combination of Ivest, Inc., and Wellington Management Co., 9,000 shares of Wellington class B common stock, representing approximately 64 percent of the voting power of Wellington, were deposited in a voting trust with Walter L. Morgan, chairman of Wellington, Joseph E. Welch, president of Wellington, John C. Bogle, executive vice president of Wellington, Andrew B. Young, director of and counsel to Wellington, and W. Nicholas Thorndike, Robert W. Doran, Stephan D. Paine, and George Lewis, managing directors of Wellington, as trustees. However, the terms of the voting trust provide that until April 1, 1968, it will be controlled by the vote of Mr. Morgan and, if the shareholders of the funds then served by Wellington approve new investment advisory contracts, it will be controlled by a majority vote of Messrs. Morgan, Welch, Bogle, and Young from April 1, 1968, until April 1, 1971, except, in each case, for certain major corporate changes.

The April 1, 1968, change in control of the voting trust from Mr. Morgan acting alone to a majority vote of Messrs. Morgan, Welch, Bogle, and Young will cause a termination of applicant's management contract then in effect. Accordingly, it will be necessary to submit to applicant's shareholders for their approval the terms of a renewed management contract to become effective April 1, 1968, in light of the change in control of the voting trust. This renewed management contract will contain precisely the same terms as the management contract in effect immediately prior to the change in control. If the proposed revision of the management fee schedule (to become effective Nov. 30, 1967) is approved by the applicant's shareholders at their November 15, 1967 meeting, the renewed contract to become effective next April 1 will contain such revision. If such approval is not obtained, the renewed contract will contain precisely the same terms as the present management contract.

The date of April 1, 1968 for the change in control of the voting trust was chosen because the stockholders' meetings of the funds managed by Wellington are held in March of each year. However, the annual meeting of applicant's shareholders is to be held in November; and applicant wishes to avoid the expense to its shareholders of holding a special meeting next March.

Section 15(a) of the Act provides that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities and provides for its automatic termination in event of its assignment by the investment adviser. The 4½-month time lapse between the proposed shareholder vote on the contract and the contemplated effective date of the new contract raises a question of the validity of any shareholder approval of the new contract so far in advance of such effective date.

Applicant submits that in light of the foregoing and the fact that the terms of the management contract to be renewed and the proposed change in control of the sole stockholder of the investment adviser have been determined and are set forth in the proxy statement, it is appropriate for applicant on April 1, 1968, to enter into a renewed management contract on the same terms as that in force immediately prior thereto if such action is approved by shareholders of the Fund at their November 15, 1967, annual meeting.

Section 6(c) of the Act provides that the Commission, by order upon application, may exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 13, 1967 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-12935; Filed, Nov. 1, 1967; 8:46 a.m.]

NORTH AMERICAN RESEARCH & DEVELOPMENT CORP.

Order Suspending Trading

OCTOBER 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of North American Research & Development Corp., 1935 South Main Street, Salt Lake City, Utah, and all other securities of North American Research & Development Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 28, 1967, through November 6, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-12936; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 0-592]

PAKCO COMPANIES, INC.

Order Suspending Trading

OCTOBER, 27, 1967.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Pakco Companies, Inc., and all other securities of Pakco Companies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 30, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-12937; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 1-5215]

ROTO AMERICAN CORP.

Order Suspending Trading

OCTOBER 27, 1967.

The common stock, $1 par value, of Roto American Corp., being listed and registered on the National Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and the 7 percent cumulative preferred, $10 par value, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the National Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 29, 1967 through November 7, 1967 both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-12938; Filed, Nov. 1, 1967; 8:47 a.m.]

[File No. 1-4371]

WESTEC CORP.

Order Suspending Trading

OCTOBER 27, 1967.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 30, 1967, through November 8, 1967, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 67-12939; Filed, Nov. 1, 1967; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 1119]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 27, 1967.

The following applications are governed by Special Rule 1.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 1.247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the Rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rule, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the applications as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 1351 (Sub-No. 11), filed October 18, 1967. Applicant: M. HASKELL, INC., 312 South Main Street, Palmer, Mass. Applicant's representative: Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper articles*, from plantsites and warehousing facilities of Diamond-National Corp. at Ludlow and Springfield, Mass., to Mount Vernon, Beacon, Albany, and New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., and points in New Jersey, and (2) *waste paper*, from points in New Jersey (except Harrison, Bloomfield, Bogota, Paterson, Ridgefield Park, Newark, Passaic, Delawanna, and New Brunswick), and points in Nassau and Suffolk Counties, N.Y., and Albany, N.Y., to the plantsite of Diamond-National Corp. at Palmer, Mass., under contract with Diamond-National Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 2202 (Sub-No. 333), filed October 13, 1967. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Applicant's representatives: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and Douglas Faris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Rockford and Mendota, Ill.: From Rockford over U.S. Highway 51 to Mendota, and return over the same route serving no intermediate points as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2860 (Sub-No. 20), filed October 18, 1967. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Alvin Altman, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass or plastic containers, bottles, jars, pack glasses, and jelly tumblers*, with or without caps, covers, stoppers, or tops, and *corrugated paper boxes or paper containers*, knocked down, when moving in mixed shipments with the above-described commodities, between Jersey City and Carteret, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 3560 (Sub-No. 32), filed October 17, 1967. Applicant: GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Kenneth A. Willhite (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Oscar Mayer & Co., Inc., Beardstown, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Chicago, Ill.

No. MC 4405 (Sub-No. 452), filed October 12, 1967. Applicant: DEALERS TRANSIT, INC., 13101 South Torrence Avenue, Chicago, Ill. 60633. Applicant's representative: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings*, complete, knocked down, or in sections and parts and accessories thereof, from points in Polk County, Ga., to points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, Delaware, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 4963 (Sub-No. 26), filed October 13, 1967. Applicant: JONES MOTOR CO., INC., Bridge Street and Schuylkill Road, Spring City, Pa. 19475. Applicant's representative: Roland Rice, Suite 618, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Morton, Ill., and Akron, Ohio, (a) from Morton over Interstate Highway 74 to junction Illinois Highway 117, thence over Illinois Highway 117 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 224 at Huntington, Ind., thence over U.S. Highway 224 to Akron, Ohio, and (b) from Morton over Interstate Highway 74 to junction Interstate Highway 55 (U.S. Highway 66), thence over Interstate Highway 55 (U.S. Highway 66) to junction U.S. Highway 24, thence as specified above to Akron, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at junction Interstate Highway 55 (U.S. Highway 66) and Interstate Highway 74, and at junction Interstate Highway 55 (U.S. Highway 66) and U.S. Highway 24, (2) between St. Louis, Mo., and Akron, Ohio, from St. Louis over Interstate Highway 70 to junction Interstate Highway 71, thence over Interstate Highway 71 to Akron, as an alternate route for operating convenience only, serving no intermediate points, (3) between St. Louis, Mo., and Canton, Ohio, from St. Louis over Interstate Highway 70 to junction Interstate Highway 77 at Cambridge, Ohio, thence over Interstate Highway 77 to Canton, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder

at Cambridge, Ohio, and (4) between Pittsburgh, Pa., and Cambridge, Ohio, (a) from Pittsburgh over Interstate Highway 79 to junction Interstate Highway 70, thence over Interstate Highway 70 to Cambridge, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at Washington, Pa., and Cambridge, Ohio, and (b) from Pittsburgh over U.S. Highway 22 to Cambridge, as an alternate route for operating convenience only, serving no intermediate points, with right of joinder at Cambridge, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 8544 (Sub-No. 23), filed October 20, 1967. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, Tex. 77011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Antifreeze*, packaged, not in bulk, and *sugar*, in packages, from Houston, Tex., to points in Oklahoma, except Oklahoma City, and (2) *sugar*, in packages, from Houston, Tex., to points in Arkansas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 13250 (Sub-No. 93), filed October 19, 1967. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, Tex. 77022. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, between points in Maricopa County, Ariz., on the one hand, and, on the other, points in Texas, Louisiana, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. NOTE: Applicant states that tacking would take place at points in Maricopa County, Ariz., involving movements between California, on the one hand, and, on the other, Mississippi, Alabama, Georgia, North Carolina, and South Carolina. Applicant also states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Washington, D.C.

No. MC 30504 (Sub-No. 15), filed October 18, 1967. Applicant: TRUCKER FREIGHT LINES, INC., 1451 South Olive Street, South Bend, Ind. 46621. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of Ford Motor Co., Van Dyke and 18 Mile Road, Sterling Township, Mich., as an off-route point in connection with applicant's authorized regular route service into and from Detroit, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 31600 (Sub-No. 621) (CORRECTION) filed October 6, 1967, published FEDERAL REGISTER issue of October 19, 1967, corrected and republished as corrected this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, "in bulk," from Burlington, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: The purpose of this republication is to add "in bulk," which was inadvertently omitted from the commodity description. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 31600 (Sub-No. 622), filed October 16, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, Jr., 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible flour*, in bulk, from Jamaica, N.Y., to Portsmouth, N.H., (2) *flour*, in bulk from Englewood, N.J., to points in Connecticut, Delaware, Maryland, Pennsylvania, and New York, (3) *liquid paint*, in bulk, in tank vehicles, from Elizabeth, N.J., to Roxboro, N.C., (4) *whiskey*, in bulk, in tank vehicles, from port of entry on the international boundary line between the United States and Canada located at Niagara Falls, N.Y., to Hartford, Conn., and (5) *aviation gasoline*, in bulk, moving on Government bills of lading, from Newington, N.J., to Plattsburgh, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 44605 (Sub-No. 32), filed October 17, 1967. Applicant: MILNE TRUCK LINES, INC., 2200 South Third West Street, Salt Lake City, Utah 84115. Applicant's representative: Henry A. Dahn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Apex and Blue Diamond, Nev., as off-route points in connection with applicant's regular-route authority serving Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 50069 (Sub-No. 389), filed October 9, 1967. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 930 North York Road, Hinsdale, Ill. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk (except nitrogen fertilizer solutions and ammoniating solutions), from the storage facilities of the Southern Nitrogen Co., Inc., at or near Fulton, Ind., to points in Illinois, Michigan, and Ohio. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 64), filed October 16, 1967. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fibrous materials and products, products* produced or distributed by manufacturers of fibrous materials and products, *supplies* incidental to the use of foregoing described commodities and *related premiums and advertising materials* when shipped with foregoing described commodities, from Griswoldville and Walpole, Mass., and Windham, Conn., to St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin and (2) *returned and rejected shipments* of the above-described commodities, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 57322 (Sub-No. 2), filed October 9, 1967. Applicant: SYRACUSE RIGGING COMPANY, INC., 223 Pulaski Street, Syracuse, N.Y. 13204. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery, road machinery, structural steel, oil field rigs, and other articles* which because of weight or bulk, require the use of special vehicles, equipment, and rigging, (1) between points in Onondaga County, N.Y., on the one hand, and, on the other, points in New York, (2) between points in Albany, Broome, Cayuga, Chemung, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Oneida, Onondaga, Ontario, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Washington, Wayne, Wyoming, and Yates Counties, N.Y., and (3) from points in Cayuga County, N.Y., to points in Nassau County, N.Y. NOTE: By this application, applicant seeks to convert its certificate of registration in MC 57322 (Sub-No. 1) into a certificate of public

convenience and necessity. Applicant states it intends to tack each of the above-described authorities at commonly authorized service points. If a hearing is deemed necessary, applicant requests it be held at Syracuse or New York, N.Y., or Washington, D.C.

No. MC 59557 (Sub-No. 9), filed October 12, 1967. Applicant: AUCLAIR TRANSPORTATION, INC., 41 McGregor Street, Manchester, N.H. 03102. Applicants' representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, from Manchester and Nashua, N.H., to points in New Hampshire on and south of U.S. Highway 4, and Wilder, Vt. NOTE: Applicant indicates it proposes to tack with its regular routes between Boston and Plymouth, N.H., Nashua and Manchester being intermediate points on such route. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Concord, N.H.

No. MC 61319 (Sub-No. 3), filed October 12, 1967. Applicant: JOHN JOSEPH O'MARA AND JAMES P. O'MARA, a partnership, doing business as MEEHAN COMPANY, 2324 North Sixth Street, Philadelphia, Pa. 19133. Applicant's representative: Richard V. Zug, 1418 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Pianos, organs and accessories therefor*, between points in Bucks County, Pa., on the one hand, and, on the other, points in New Jersey and Delaware, (b) *pianos, organs and accessories*, between Philadelphia, Pa., and points in Delaware and Montgomery Counties, Pa., on the one hand, and, on the other, points in that part of New Jersey north of a line beginning at Trenton, N.J., and extending in a northerly direction along U.S. Highway 206 to Princeton, N.J., thence in a southeasterly direction along an unnumbered highway to Hightstown, N.J., and thence in an easterly direction along New Jersey Highway 33 to the Atlantic Ocean (excluding points in the named portions of the highways specified), and (c) *stereo sets, high-fidelity sets, television sets, and record players*, all uncrated, between Philadelphia, Pa., and points in Bucks, Montgomery, and Delaware Counties, Pa., on the one hand, and, on the other, points in New Jersey and Delaware. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 61592 (Sub-No. 92), filed October 18, 1967. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorff, Iowa 52722. Applicant's representative: R. Connor Wiggins, Jr., 909 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, plywood, molding and millwork*, from points in Tipton County, Tenn., to points in North Dakota, South Dakota, Iowa, Wisconsin, Ohio, Minnesota, Illinois, Indiana, Michigan, Nebraska, Missouri, Kansas, Mississippi, Alabama, Georgia, Florida, and Louisiana. NOTE: Applicant states the proposed authority herein can or will be joined with its presently authorized authority in MC 61592 Subs 19, 26, 55, and 67, wherein it is authorized to operate in the States of Missouri, Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Wisconsin, Arkansas, Tennessee, Kentucky, Alabama, North Dakota, South Dakota, Missouri, Pennsylvania, Ohio, Texas, Kansas, and Oklahoma. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 66900 (Sub-No. 31), filed October 10, 1967. Applicant: HOUFF TRANSFER, INCORPORATED, Post Office Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulp board and paper*, from Covington, Va., to Newark and New Castle, Del., and points within a 5-mile radius of Newark and New Castle, Del., and (2) *rejected shipments* on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 71106 (Sub-No. 3), filed October 13, 1967. Applicant: MUNCE BROS. TRANSFER & STORAGE CO., a corporation, 221 South Franklin Avenue, Sioux Falls, S. Dak. 57103. Applicant's representative: R. G. May, 412 West Ninth Street, Sioux Falls, S. Dak. 57104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment and *related contractors' materials, equipment, and supplies* when transported in connection with such commodities, between Sioux Falls, S. Dak., and points within 75 miles thereof, on the one hand, and, on the other, points in Minnesota south of U.S. Highway 12, extending from the South Dakota-Minnesota State line near Ortonville, Minn., through Willmar and Minneapolis, Minn., to the Minnesota-Wisconsin State line (excluding points in the Minneapolis-St. Paul commercial zone, as defined by the Commission) and points in Iowa and Nebraska within 150 miles of Sioux Falls, S. Dak. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., Omaha, Nebr., or Minneapolis, Minn.

No. MC 83539 (Sub-No. 221), filed October 20, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representatives: J. P. Welsh, Post Office Box 5976, Dallas, Tex., and W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment, winches, compaction and roadmaking equipment, rollers, self-propelled and non-self-propelled, mobile cranes*, and *highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities described in (1) above, between the plantsites of the Hyster Co. located at or near Danville, Kewanee, and Peoria, Ill., on the one hand, and, on the other, points in Arkansas, Indiana, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, restricted to the handling of traffic originating at or destined to the named plantsites. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 94201 (Sub-No. 59) (Amendment), filed June 7, 1967, published in the FEDERAL REGISTER issue of July 7, 1967, amended October 18, 1967, and republished as amended this issue. Applicant: BOWMAN TRANSPORTATION, INC., 2161 Moreland Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), (1) between Gadsden, Ala., and Memphis, Tenn.: (a) From Gadsden, over U.S. Highway 431 to junction U.S. Highway 72 at Huntsville, Ala., thence over U.S. Highway 72 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama and the off-route point of Scottsboro, Ala.; those points in Alabama within a 15-mile radius of Gadsden; Huntsville, Decatur, Florence, Sheffield, and Tuscumbia, Ala.; and those points in Tennessee, Mississippi, and Arkansas within a 15-mile radius of Memphis, Tenn.; (b) from Gadsden, over U.S. Highway 278 to junction U.S. Highway 231, thence over U.S. Highway 231 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Alternate Highway 72 at Decatur, Ala., thence over U.S. Alternate Highway 72 to junction U.S. Highway 72, thence over U.S. Highway 72 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama; (c) from Gadsden, over U.S. Highway 278 to Cullman, Ala., thence over Interstate Highway 65 to Hartselle, Ala., thence over Alabama Highway 36 to its intersection with Alabama Highway 33 at or near Wren, thence over Alabama Highway 33 to Moulton, thence over Alabama Highway 24 to Russellville, Ala., thence over U.S. Highway 43 to Tuscumbia, Ala., thence over U.S. Highway 72 to Memphis, Tenn., serving all intermediate points in Alabama; (2) between Florence, Ala., and Memphis, Tenn.:

(a) From Florence over Alabama Highway 20 to the Alabama-Tennessee

State line, thence over Tennessee Highway 69 to junction U.S. Highway 64 at Savannah, Tenn., thence over U.S. Highway 64 to Memphis, Tenn., and return over the same routes serving all intermediate points in Alabama and Tennessee; (3) between Guntersville, Ala., and junction Alabama Highways 69 and 67 near Hulaco, Ala.; (a) from Guntersville over Alabama Highway 69 to junction Alabama Highway 67, and return over the same routes serving all intermediate points; (4) between Huntsville and Decatur, Ala.; (a) From Huntsville over U.S. Highway Alternate 72 to Decatur, and return over the same routes serving all intermediate points; (5) between Gadsden, and Huntsville, Ala.: (a) From Gadsden over U.S. Highway 278 to junction U.S. Highway 231, thence over U.S. Highway 231 to Huntsville, and return over the same routes serving all intermediate points; (6) between Cedartown, Ga., and Gadsden, Ala., over U.S. Highway 278, serving all intermediate points; (7) between Corinth, Miss., and Selmer, Tenn., over U.S. Highway 45, for operating convenience only; (8) between Selmer and Jackson, Tenn., over U.S. Highway 45, serving no intermediate points; (9) between Memphis and Jackson, Tenn.: From Memphis to Jackson, over U.S. Highway 70 or Interstate Highway 40, serving no intermediate points, but serving all points within a 15-mile radius of Jackson, as off-route points. NOTE: Applicant states it intends to tack the above proposed routes with each other and with all that authority previously granted under certificates No. MC-94201 and Subs, wherein applicant is authorized to serve points in the States of Alabama, Tennessee, Virginia, Maryland, Florida, Georgia, North Carolina, South Carolina, Mississippi, Kentucky, Louisiana, West Virginia, New York, Delaware, New Jersey, Pennsylvania, District of Columbia, and Connecticut. The purpose of this republication is to broaden the scope of the application previously published. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Memphis, Tenn.

No. MC 98869 (Sub-No. 4), filed October 4, 1967. Applicant: KOSCHKEE TRANSFER INC., Route 1, Fennimore, Wis. 53809. Applicant's representative: Claude Jasper, 1111 South Fairchild Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dubuque, Iowa, and Madison, Wis., from Dubuque over U.S. Highway 20 to East Dubuque, Ill., thence over Illinois and Wisconsin Highways 35 to junction Wisconsin Highway 11, thence over Wisconsin Highway 11 to junction Wisconsin Highway 78, thence over Wisconsin Highway 78 to junction U.S. Highway 18, thence over U.S. Highway 18 to Madison, and return over the same route serving all intermediate points, (2) between junction Wisconsin Highways 11 and 23 and Mineral Point, Wis., over Wisconsin Highway 23, serving all intermediate points, (3) between Mount Ida, Wis., and junction Grant County Highway K and junction U.S. Highway 61 over Grant County Highway K, serving all intermediate points, (4) between Boscobel, Wis., and Dubuque, Iowa, over U.S. Highway 61, serving all intermediate points and the off-route point of Stitzer, Wis., (5) between Lancaster and Cassville, Wis., from Lancaster over Wisconsin Highway 35 to junction Wisconsin Highway 81, thence over Wisconsin Highway 81 to Cassville and return over the same route serving all intermediate points, (6) between junction Wisconsin Highways 11 and 80 and Montfort, Wis., over Wisconsin Highway 80 serving all intermediate points and the off-route point of Rewey, Wis., (7) between Platteville, Wis., and junction of Wisconsin Highway 81 and U.S. Highway 61, over Wisconsin Highway 81 serving all intermediate points, (8) between Prairie du Chien and Madison, Wis., over U.S. Highway 18 serving all intermediate points, (9) between junction U.S. Highways 18 and 151 and Dubuque, Iowa, over U.S. Highway 151 serving all intermediate points, (10) between Prairie du Chien, Wis., and Dubuque, Iowa, from Prairie du Chien over U.S. Highway 18 to junction Wisconsin Highway 35, thence over Wisconsin Highway 35 to junction Wisconsin Highway 133, thence over Wisconsin Highway 133 to junction U.S. Highway 61, thence over U.S. Highway 61 to Dubuque and return over the same route serving all intermediate points; (11) between Bloomington, Wis., and junction Wisconsin Highways 35 and 81 over Wisconsin Highway 35 serving all intermediate points, and (12) between Beetown, Wis., and junction Grant County Highway U and Wisconsin Highway 35 over Grant County Highway U, serving no intermediate points. Restriction: The service sought herein is restricted against the transportation of traffic between Prairie du Chien, Wis., and Dubuque, Iowa. NOTE: The instant application seeks to convert the certificate of registration under MC 98869 Sub-1 to a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 100666 (Sub-No. 109), filed October 20, 1967. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7295, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials, and gypsum and gypsum products*, from Irving, Tex., to points in Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Iowa, Missouri, Arkansas, Louisiana, Kentucky, Tennessee, Alabama, and Mississippi. NOTE: Applicant states it could tack at Briar, Ark., with its presently held authority in Sub 48, wherein it is authorized to conduct operations in the States of Georgia, Illinois, and Indiana. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., Dallas, Tex., or Oklahoma City, Okla.

No. MC 102616 (Sub-No. 821), filed October 16, 1967. Applicant: COASTAL TANK LINES, INC., 501 Grantley Road, York, Pa. 17405. Applicant's representative: Harold G. Hernly, 711 Fourteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, dry, in bulk, in tank and hopper type vehicles, equipped with pneumatic unloading devices, from Baltimore, Md., to points in Adams, Bedford, Chester, Cumberland, Dauphin, Franklin, Fulton, Lancaster, Lebanon, Somerset, and York Counties, Pa.; Caroline, Clarke, Culpeper, Essex, Fairfax, Fauquier, Frederick, King and Queen, King George, Lancaster, Loudoun, Middlesex, Northumberland, Orange, Prince William, Rappahannock, Richmond, Spotsylvania, Stafford, Warren, and Westmoreland Counties, Va.; and Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, and Morgan Counties, W. Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washintgon, D.C.

No. MC 103378 (Sub-No. 327), filed October 19, 1967. Applicant: PETROLEUM CARRIER CORPORATION, 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Johnston, S.C., to points in Georgia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 105881 (Sub-No. 40), filed October 16, 1967. Applicant: M. R. & R. TRUCKING COMPANY, a corporation, 715 North Ferdon Boulevard, Crestview, Fla. 32536. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities*, except commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Tallahassee, Fla., and Albany, Ga.: From Tallahassee, to Thomasville, Ga., over U.S. Highway 319, thence over U.S. Highway 19 to Albany and return over the same route, serving Moultrie, Ga., and points in Thomas County, Ga., as intermediate or off-route points; (2) between Tampa, Fla., and Thomasville, Ga.: From Tampa over U.S. Highway 41 to Dunnellon, Fla., thence over Florida Highway 336 to Lebanon Station, Fla., thence over U.S. Highway 19 to Thomasville, and return over the same route, serving points between and including Dunnellon and Monticello as intermediate points; (3) between Dunnellon, and Jacksonville, Fla.: From Dunnellon over U.S. Highway 41 to Archer, Fla., thence over Florida Highway 24 to Waldo, Fla., thence over U.S. Highway 301 to Maxville, Fla., thence over Florida Highway 228 to

Jacksonville, and return over the same route, serving points between and including Dunnellon and Gainesville as intermediate points; (4) between Archer and Cedar Key, Fla.: From Archer to Cedar Key over Florida Highway 24, and return over the same route, serving all intermediate points; (5) between Chiefland and Williston, Fla.: From Chiefland over U.S. Highway Alternate 27 to Williston, and return over the same route, serving all intermediate points.

(6) Between Greenville and Lake City, Fla.: From Greenville over U.S. Highway 90 to Lake City, and return over the same route, serving points between and including Greenville and Lake City as intermediate points and the plantsite of Occidental Corp. located near White Springs, Fla., as an off-route point, in connection with the carrier's otherwise authorized route between Jacksonville and Tallahassee, Fla.; (7) between Perry and Lake City, Fla.: From Perry over U.S. Highway 27 to Branford, Fla., thence over Florida Highway 247 to Lake City, and return over the same route, serving Mayo, Fla., as an intermediate point; (8) between Live Oak and Mayo, Fla.: From Live Oak over Florida Highway 51 to Mayo, and return over the same route, serving no intermediate points; (9) between Tampa, Fla., and the junction of Interstate Highway 75 and U.S. Highway 90 near Lake City, Fla.: From Tampa over Interstate Highway 75 to the junction of Interstate Highway 75 and U.S. Highway 90 and return over the same route, serving no intermediate points but serving the junction of Interstate Highway 75 and Florida Highway 24 near Gainesville for the purpose of joinder only, and serving Alachua, High Springs, and the plantsite of General Electric Corp. in Alachua County as off-route points. Restriction: Routes 1 through 9 specified herein may not be combined or tacked with other authorized routes of the carrier for the purpose of performing a direct single line of service: (a) From, to, or through more than one of the points of Atlanta, Ga.; Jacksonville or Tampa, Fla.; including the respective commercial zones of each; or (b) between Atlanta, Ga., including the commercial zone thereof, on the one hand, and, on the other, any points in Georgia located on Routes 1 through 9, including shipments interchanged at Atlanta for movement to or from points beyond. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tallahassee, Fla.

No. MC 106760 (Sub-No. 84), filed October 16, 1967. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Airport Highway, Toledo, Ohio 43614. Applicant's representative: Leonard A. Jaskiewicz, Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, building sections, and component parts*, from points in Georgia, to points in Florida. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107839 (Sub-No. 115), filed October 18, 1967. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 4985 York Street, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as defined in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Albuquerque, N. Mex., to Grants and Gallup, N. Mex., and Window Rock, Fort Defiance, St. Michaels, Ganado, Chinle, and Many Farms, Ariz. NOTE: Applicant states that it proposes to tack requested authority at Albuquerque, N. Mex., with existing authority in MC-107839 Sub 101, from Denver, Colo., to Albuquerque, so as to transport the described commodities from Denver to destinations named in present application. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 108449 (Sub-No. 273), filed September 1, 1967. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, acids and gases*, from points in Ramsey, Washington, Anoka, Hennepin, Scott, Dakota, and Goodhue Counties, Minn., to points in Minnesota, North Dakota, South Dakota, Iowa, Wisconsin, Illinois, and the Upper Peninsula of Michigan. NOTE: Applicant intends to tack the authority sought with its presently held authority at Fort Madison, Clinton, Fort Dodge, Council Bluffs, Garner, Sioux City, Waterloo, Dakota City, and Sanborn, Iowa, and Albany and Fulton, Ill., wherein applicant is authorized to serve points in Missouri, Ohio, Nebraska, Michigan, Indiana, Kentucky, Arkansas, Kansas, Oklahoma, and Colorado. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 109689 (Sub-No. 184), filed October 16, 1967. Applicant: W. S. HATCH CO., a corporation 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid gilsonite*, (1) from Denver, Colo., to points in New Mexico, Arizona, Kansas, Wyoming, Montana, and Idaho; and (2) from Compton, Calif., to points in Arizona, New Mexico, Nevada, and Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 109692 (Sub-No. 20), filed October 13, 1967. Applicant: GRAIN BELT TRANSPORTATION COMPANY, a corporation, 347 North James Street, Kansas City, Kans. Applicant's representative Carll V. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Combines and parts thereof*, between points in the Kansas City, Mo.-Kans., commercial zone, on the one hand, and, on the other, points in Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 111401 (Sub-No. 237), filed October 19, 1967. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, Okla. 73701. Applicant's representative: Edward T. Lyons, Jr., Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truck bodies*, from the plantsite of Tradewind Industries, Inc., at or near Liberal, Kans., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virgina, and Wisconsin; and (2) *materials, equipment, and supplies* used in the production of truck bodies, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virgina, Washington, West Virgina, and Wisconsin to the plantsite of Tradewind Industries, Inc., at or near Liberal, Kans. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Oklahoma City, Okla.

No. MC 111467 (Sub-No. 15), filed October 13, 1967. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1381 Rockdale Road, Dubuque, Iowa 52001. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, in bulk, in dump vehicles, from Fulton, Ill., to points in Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 111467 (Sub-No. 16), filed October 13, 1967. Applicant: ARTHUR J. PAPE, doing business as ART PAPE TRANSFER, 1381 Rockdale Road, Dubuque, Iowa 52001. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed ingredients*, from Dubuque, Iowa, to points in Illinois, Minnesota, Missouri, and Wisconsin. NOTE: If a hearing is deemed necessary, appli-

cant requests it be held at Des Moines, Iowa.

No. MC 111729 (Sub-No. 252), filed October 6, 1967. Applicant: AMERICAN COURIER CORPORATION, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Commonwealth Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds* (excluding plant removals), *and advertising material and merchandise samples* moving therewith, between Milwaukee, Wis., on the one hand, and, on the other, Elmhurst, Ill.; (2) *business papers, records, and audit and accounting media of all kinds* (excluding plant removals), (a) between Muncie, Ind., on the one hand, and, on the other, Detroit, Mich.; (b) between Minneapolis, Minn., on the one hand, and, on the other, West Chicago, Ill.; (c) between Portland, Maine, on the one hand, and, on the other, Manchester, N.H., and Boston, Mass.; (3) *tax stamp meter machine*, between Boston, Mass., on the one hand, and, on the other, Hartford, Conn., and North Haven, Conn.; (4) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition), between Cleveland, Ohio, on the one hand, and, on the other, points in Indiana. NOTE: Applicant is also authorized to conduct operations as a contract carrier in permit No. MC 112750 and subs, therefor, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Detroit, Mich.

No. MC 111740 (Sub-No. 22), filed October 13, 1967. Applicant: OIL TRANSPORT COMPANY, a corporation, East Highway 80, Post Office Drawer 2679, Abilene, Tex. 79604. Applicant's representative: Jerry Prestridge, Post Office Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur*, except that sulphur derived from petroleum or petroleum products, in bulk, from points in Culberson, Pecos, and Reeves Counties, Tex., to points in Arizona, New Mexico, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 111812 (Sub-No. 359), filed October 19, 1967. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* and *articles distributed by meat packinghouses* as described in sections A and C in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank trucks), (1) from Huron, S. Dak., to points in California, Cook County, Ill., Oregon, Washington, and Wisconsin, restricted to traffic originating at the plantsite of Rod Barnes Packing Co., and (2) from Scottsbluff, Nebr., to points in Oregon and Washington, restricted to traffic originating at the plantsite of Scottsbluff Packing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 112539 (Sub-No. 6), filed October 10, 1967. Applicant: PERCHAK TRUCKING, INC., Route 309, Hazle Village, Hazleton, Pa. 18201. Applicant's representative: Louis G. Feldmann, 1009 Northeastern Building, Hazleton, Pa. 18201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap metals*, from points in Luzerne, Columbia, and Montour Counties, Pa., to points in Wayne County, Mich., and (2) *malt and brewed beverages*, from the Schaefer Brewing Co. located at sites in Kings County, N.Y., Baltimore City and Baltimore County, Md., and from the Budweiser Brewing Co. located in Essex County, N.J., to Hazleton, Pa. and points in an area around Hazleton bounded and described as follows: Beginning at a point in Brockton, Schuylkill County, on U.S. Highway 209; thence continuing in a generally east-northeast direction along U.S. Highway 209 to Jim Thorpe (Carbon County), thence proceeding in a southerly direction along U.S. Highway 209 to intersection of the extension of the northeast Pennsylvania Turnpike; thence along the northeast Pennsylvania Turnpike extension in a generally northerly direction to the intersection Pennsylvania Highway 115; thence continuing in a generally northerly direction along Pennsylvania Highway 115 to intersection Pennsylvania Highway 315; thence along Pennsylvania Highway 315 to the Borough of Ashley, Luzerne County; thence continuing in a generally west-southwest direction along an unnumbered route through Warrior Run, Wanamie, Glen Lyon, to Mocanaqua, thence crossing the Susquehanna River at Mocanaqua to U.S. Highway 11; thence along U.S. Highway 11 in a generally south-westerly direction in Luzerne and Columbia Counties to intersection with Interstate Highway 80; thence along Interstate Highway 80 in a generally easterly direction to Lime Ridge, Columbia County; thence along Pennsylvania Highway 339 in Columbia and Schuylkill Counties in a generally south-southeasterly direction to Mahanoy City; Schuylkill County; thence by an unnumbered route in a south-southeasterly direction to Brockton, Schuylkill County, the place of beginning, and *empty cartons, bottles and barrels and rejected products*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hazleton or Scranton, Pa.

No. MC 112617 (Sub-No. 244), filed October 13, 1967. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 5135, Cherokee Station, Louisville, Ky. 40205. Applicant's representative: Leonard A. Jaskiewicz, 606 Madison Building, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank or hopper vehicles, from Neal, W. Va., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charleston, W. Va.

No. MC 113483 (Sub-No. 2), filed October 12, 1967. Applicant: TAMBINI STORAGE WAREHOUSE, INC., 137 Carlton Avenue, Brooklyn, N.Y. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, furnishings, appliances and personal effects*, between points in the New York, N.Y., Harbor areas, as defined by the Commission in Ex Parte 140, title 49, CFR 403. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 113651 (Sub-No. 120), filed October 12, 1967. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. Applicant's representative: Charles Singer, 33 North Dearborn, Suite 1625, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Plymouth, Ind., Jamestown, Mich., and Somers, Wis., to points in Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Ohio, Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, District of Columbia, Delaware, Maryland, Pennsylvania, New York, New Jersey, and Indiana. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 113678 (Sub-No. 291), filed October 17, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles distributed by meat packinghouses*, as described in section C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver and Greeley, Colo., to points in Arizona, California, Nevada, and New

Mexico, restricted against tacking or joinder with any other authority now held by applicant for the purpose of providing through service. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 292), filed October 20, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duane W. Acklie, Post Office Box 2028, Lincoln, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products and floor coverings*, from points in West Virginia, Virginia, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Texas, Minnesota, Iowa, and Missouri. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., and Denver, Colo.

No. MC 113678 (Sub-No. 293), filed October 20, 1967. Applicant: CURTIS, INC., 770 East 51st Avenue, Denver, Colo. 80216. Applicant's representative: Duance W. Acklie, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products, and floor coverings*, from points in Illinois, Ohio, Massachusetts, New York, Pennsylvania, and Rhode Island, to points in Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113760 (Sub-No. 6), filed October 9, 1967. Applicant: H. M. POPP TRUCK LINES, INC., Post Office Box 447, Commerce City, Colo. 80022. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and crude oil*, in bulk, in tank vehicles, from points in Carter and Powder River Counties, Mont., to points in Campbell, Crook, and Weston Counties, Wyo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Cheyenne, Wyo., or Billings, Mont.

No. MC 114045 (Sub-No. 294), filed October 2, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food preparations, foodstuffs, and items used and dealt in by ice cream and confectionary stores or stands*, from Chicago, Ill., and points in its commercial zone as defined by the Commission and points in Kane, Cook, Du Page, Kendall, and Wills Counties, Ill., and points in Lake and Porter Counties, Ind., to points in Oklahoma, Texas, Louisiana, Kansas, New Mexico, and Colorado. NOTE: Applicant states the proposed authority herein can or will be joined with its presently authorized authority in MC 114045 Subs 85, 278, and 280, wherein it is authorized to operate in the States of Colorado, Oregon, Washington, Nevada, Utah, Idaho, Montana, and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 296), filed October 16, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: R. L. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, in mechanically refrigerated vehicles, (1) from West Reading, Pa., to points in Georgia, North Carolina, and South Carolina, and (2) from New York, N.Y., to points in Alabama, Georgia, South Carolina, and North Carolina. NOTE: Applicant states that it could tack at Dunn, N.C., with its present authority in MC 114045 Sub-No. 255, whereas it is authorized to operate in Iowa, Arkansas, Louisiana, Mississippi, Texas, Nebraska, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, and Wisconsin and its pending application in MC 114045 Sub-No. 275, whereas it seeks to operate to points in Illinois, Indiana, Ohio, Michigan, Kansas, Missouri, Oklahoma, Montana, North Dakota, and South Dakota. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114045 (Sub-No. 297), filed October 19, 1967. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods, pet supplies, pet accessories and tonics, animal feed supplements and insecticides* (except in bulk) (1) from New York, N.Y., and points in Essex, Hudson, and Bergen Counties, N.J., to New Orleans, La., Phoenix and Tucson, Ariz., Los Angeles, Calif., and points in the Los Angeles, Calif., commercial zone; (2) from Morris, Somerset, Monmouth, and Middlesex, N.J., to points in Texas, Oklahoma, Louisiana, New Mexico, Arizona, and California; and (3) from New York, N.Y., to Essex, Hudson, Bergen, Morris, Somerset, Monmouth, and Middlesex, N.J., to points in Alabama, Florida, Georgia, Missouri, Kansas, Colorado, Nebraska, Iowa, Illinois, Oregon, and Washington. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 114165 (Sub-No. 6), filed October 17, 1967. Applicant: PELICAN TRUCKING COMPANY, INC., 1600 Wells Island Road, Post Office Box 7127, Shreveport, La. 71107. Applicant's representatives: Phineas Stevens, Suite 700, Petroleum Building, Post Office Box 22567, Jackson, Miss. 39205, and Ray A. Barlow, 867 Texas Eastern Building, Post Office Box 1574, Shreveport, La. 71102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight requires the use of special equipment or handling, and of *related parts, materials, and supplies* when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment or handling, between points in Alabama, Arkansas, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport, La.; Houston, Tex.; or Jackson, Miss.

No. MC 114194 (Sub-No. 144), filed October 6, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Gene Kreider (same address as applicant). Authority sought to operate as a *common carrier, by* motor vehicle, over irregular routes, transporting: *Dextrine* (starch) in bulk, from points in the Chicago, Ill., commercial zone, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states it would tack the proposed authority with its presently held authorities at Granite City, Ill., to serve points in Missouri, Tennessee, Illinois, Indiana, Ohio, Pennsylvania, Michigan, Wisconsin, Minnesota, and at Decatur, Ill., to serve Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, and at St. Louis, Mo., to serve Illinois, Missouri, Indiana, Ohio, Iowa, and Nebraska. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114194 (Sub-No. 145), filed October 20, 1967. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of corn, and products of soy beans and blends*, in bulk, from Decatur, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it could tack at St. Louis, Mo., and Dupo, Ill. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 114552 (Sub-No. 34), filed October 19, 1967. Applicant: SENN TRUCKING COMPANY, a corporation, Post Office Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings knocked down, prefabricated metal building sections knocked down, prefabricated prefinished metal panel sections, component parts* thereof, *equipment, materials, and supplies* used in the installation, construction, or erection thereof (except metal buildings which are designed to be drawn by passenger vehicles), from Evansville, Wis., to points in Delaware, Kentucky, Maryland, Tennessee, Virginia, West Virginia, and the District of Columbia, and (2) *materials, equipment, and supplies* used

or useful in the manufacture of the commodities described in (1) above, from Delaware, Kentucky, Maryland, Tennessee, Virginia, West Virginia, and the District of Columbia, to Evansville, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114699 (Sub-No. 39), filed October 11, 1967. Applicant: TANK LINES, INCORPORATED, Chuckatuck Avenue and Old Midlothian Pike, Richmond, Va., also Post Office Box 9035, Richmond, Va. Applicant's representative: E. Stephen Heisley, 529 Transportation Building, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Caprolactam* in bulk, in tank vehicles, from Hopewell, Va., to ports of entry on the international boundary of the United States and Mexico at Texas, and (2) *caprolactam wash water*, in bulk, in tank vehicles, from ports of entry on the international boundary of the United States and Mexico at Texas to Hopewell, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Houston or Dallas, Tex.

No. MC 114848 (Sub-No. 36), filed October 19, 1967. Applicant: WHARTON TRANSPORT CORPORATION, 1498 Channel Avenue, Memphis, Tenn. 38106. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural residue*, from Memphis, Tenn., to points in Alabama, Arkansas, Mississippi, Georgia, Louisiana, Kentucky, Tennessee, and Missouri. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 115056 (Sub-No. 16), filed October 9, 1967. Applicant: BUNDY TRUCK LINE, INC., Gatesville, N.C. Applicant's representative: Jno. C. Goddin, 200 West Grace Street, Richmond, Va. 23220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass jars and jar caps*, from points in New York, New Jersey, Pennsylvania, and Maryland, to Ahoskie, N.C.; (2) *cans*, from points in Maryland, to Ahoskie, N.C.; (3) *barrels and spices*, from points in New York, to Ahoskie, N.C.; (4) *sugar*, from points in New York, Pennsylvania, and Maryland to Ahoskie, N.C., and (5) *pickles*, from Ahoskie, N.C., to points in Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 72), filed October 13, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyvinyl alcohol*, (1) from Charleston, S.C., to points in Georgia, North Carolina, and South Carolina, and (2) from Marietta, Ga., to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115311 (Sub-No. 75), filed October 18, 1967. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, Ga. 31061. Applicant's representative: Bill R. Davis, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, having a prior movement by rail, from Atlanta, Ga., to points in Georgia, Florida, North Carolina, South Carolina, Tennessee, Alabama, and Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 116077 (Sub-No. 219), filed October 18, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diisodecyl phthalate*, in bulk, from Houston, Tex., to Plano, Tex. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 116227 (Sub-No. 7), filed October 17, 1967. Applicant: POLMAN TRANSFER, INC., Route No. 3, Wadena, Minn. Applicant's representative: James F. Greenstein, 112 East Sixth Street, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets*, in bulk, from Thief River Falls, Minn., to points in North Dakota, South Dakota, Montana, Iowa, Nebraska, Wisconsin, and Illinois. NOTE: Applicant holds contract carrier authority under MC 108523 and Sub-No. 4 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Fargo, N. Dak.

No. MC 116949 (Sub-No. 10), filed October 11, 1967. Applicant: BURNS TRUCKING, INC., Route No. 1, South Sioux City, Nebr. Applicant's representative: Paul W. Deck, 222 Davidson Building, Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New, used, and/or wrecked semitrailers, parts, and equipment therefor*, between plantsite of Load King Trailer Co. at or near Elk Point, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Load King Trailer Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa.

No. MC 116950 (Sub-No. 6), filed October 18, 1967. Applicant: JOSEPH L. DRAKE, 499 North Delaware Street, Chandler, Ariz. 85224. Applicant's representative: A. Michael Berstein, 1327 Guaranty Bank Building, Phoenix, Ariz. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire retardant chemical (fire-trol), anhydrous ammonia, and chemical fertilizers*, from Phoenix, Chandler, and Kyrene, Ariz., to points in Idaho, Montana, North Dakota, Washington, and Oregon and (2) *materials* used for the manufacture of agricultural chemicals, on return, under contract with Arizona Agrochemical Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix or Tucson, Ariz.

No. MC 118910 (Sub-No. 1), filed October 17, 1967. Applicant: MRS. T. E. GROTEVANT, doing business as J & G CONTRACT CARRIERS, 610 West Henry Street, Pontiac, Ill. 61764. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and aluminum doors, screens, and awnings, and parts and accessories therefor; and steel and aluminum channels, angles, and coils*, (1) between Chatsworth, Ill., on the one hand, and, on the other, Goshen, Ind.; Carlstadt, N.J.; Miami, Fla.; Jefferson City, Mo.; Merrill, Fond du Lac, and Sheboyan, Wis.; Oswego, N.Y.; and Hanover and York, Pa.; and (2) from Goshen, Ind., to Carlstadt, N.J., under contract with American Screen Products Co., Chatsworth, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119268 (Sub-No. 70), filed October 18, 1967. Applicant: OSBORN, INC., 125 Milton Avenue SE., Atlanta, Ga. 30315. Applicant's representative: John P. Carlton, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Minneapolis, Minn., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Atlanta, Ga.

No. MC 119493 (Sub-No. 36), filed October 18, 1967. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* (except commodities in bulk), *and commodities which, due to size and weight, require use of specialized motor vehicle equipment*, between points in Little River County, Ark., on the one hand, and, on the other, points in Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119531 (Sub-No. 70), filed October 16, 1967. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, Ohio 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Ravenna, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and West Virginia, and (2) *materials and supplies* used in or incidental to the manufacture, sale, and distribution of paper and paper products, from points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, and West Virginia, to Ravenna, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 119641 (Sub-No. 69), filed October 19, 1967. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames or fifth wheels), (2) *agricultural machinery and implements*, (3) *industrial and construction machinery and equipment*, (4) *equipment* designed for use in connection with tractors, (5) *trailers* designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles) (6) *attachments* for the commodities, described above, (7) *internal combustion engines*, and (8) *parts and accessories* of the commodities described in (1) through (7) above when moving in mixed loads with such commodities, from the plant and warehouse sites of Massey-Ferguson, Inc., located at or near Cuyahoga Falls, Ohio, to points in the United States (except Hawaii and Alaska), restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119695 (Sub-No. 1), filed October 4, 1967. Applicant: HAAG TRUCK LINE, INC., 570 West 17th Street, Indianapolis, Ind. Applicant's representative: John E. Lesow, 3737 North Meridian Street, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lactose* (sugar extraction of milk), from Winsted, Minn., to Sturgis, Mich., and Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 119767 (Sub-No. 202), filed October 2, 1967. Applicant: BEAVER TRANSPORT CO., a corporation, 100 South Calumet Street, Burlington, Wis. 53105, also Post Office Box 339, Burlington, Wis. 53105. Applicant's representatives: Allan B. Torhorst, Post Office Box 339, Burlington, Wis., and Fred H. Figge, 100 South Calumet Street, Burlington, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Offal*, from Fort Dodge and Des Moines, Iowa, to points in Wisconsin. NOTE: Applicant states it could tack the proposed authority with its Sub 28 at points in Wisconsin to enable service to points in Illinois, Indiana, and Iowa. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 119777 (Sub-No. 87), filed October 6, 1967. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box 1, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles, including coiled stainless steel*, from Coshocton, Ohio, to points in Madison County, Miss., (2) *aluminum wire*, from Newark, Ohio, to points in Madison County, Miss., and (3) *iron and steel and iron and steel articles*, from Middletown, and Lima, Ohio, Gary, Ind., and Ashland, Ky., to Kosciusko, Miss. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 119931 (Sub-No. 4), filed October 16, 1967. Applicant: HERMAN HEALZER, doing business as P & H TRUCK SERVICE, 3310 Cuvington Court, Hutchinson, Kans. 67501. Applicant's representative: James F. Miller, 7501 Mission Road, Shawnee Mission, Kans. 66208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Peoria, Ill., to Scammon, Kans., and points within 3 miles thereof, and Wichita, Kans., and (2) *pallets, beverages containers and bottles*, from Scammon, Kans., and points within 3 miles thereof, and Wichita, Kans., to Peoria. Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 119934 (Sub-No. 143), filed October 18, 1967. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: Robert C. Smith, 620 Illinois Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, dry, in bulk, in tank or hopper-type vehicles, from Danville, Ill., to points in Michigan, Minnesota, Missouri, Nebraska, and Wisconsin. NOTE: Applicant holds contract carrier authority under MC 128161, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 121340 (Sub-No. 2) (Amendment), filed May 31, 1967, published in the FEDERAL REGISTER issue of June 22, 1967, amended and republished as amended this issue. Applicant: R. LEVINGE and T. L. ALLEN, JR., a partnership, doing business as L & A TRANSPORTATION COMPANY, 5094 Buelow, Houston, Tex. 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discover, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main or trunk pipelines; and, (3) *commodities*, other than those described above, the transportation of which, because of their size or weight, requires the use of special equipment, and parts thereof, when moving in connection with such commodities. NOTE: Applicant, which operates only between points in Texas, seeks by related proceedings in Docket MC-FC-69629 to purchase authority to physically operate between Texas and Louisiana. It is the sole purpose of the subject proceeding to preserve applicant's present interstate authority under its registration certificate No. 121340 (Sub 1) by converting it to a certificate of convenience and necessity. No extension of present territory or authority is considered to be involved. On grant of authority here sought, applicant would have canceled its certificate No. MC-121340 (Sub 1). The purpose of this republication is to define the commodity description. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 123048 (Sub-No. 106), filed October 13, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53403. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and C. Ernest Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery, agricultural implements and parts, accessories, attachments therefor*, from points in Jones County, Miss., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or Memphis, Tenn.

No. MC 123048 (Sub-No. 108), filed October 16, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and C. Ernest Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, and parts* other than hand (except such machinery, implements and parts, which because of size or weight require the use of special equipment)

as described in appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from La Porte, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 123048 (Sub-No. 109), filed October 19, 1967. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames, or fifth wheels), (2) *agricultural machinery and implements*, (3) *industrial and construction machinery and equipment*, (4) *equipment* designed for use in connection with tractors, (5) *trailers*, designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles), (6) *attachments*, for the commodities described above, (7) *internal combustion engines*, and (8) *parts and accessories* of the commodities described in (1) through (7) above when moving in mixed loads with such commodities, from the plant and warehouse sites of Massey-Ferguson, Inc., at or near Cuyahoga Falls, Ohio, to points in the United States (except Hawaii and Alaska). Restriction: The authority requested above is restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123383 (Sub-No. 26), filed October 15, 1967. Applicant: BOYLE BROTHERS, INC., 276 River Road, Edgewater, N.J. 07020. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards, building, wall and/or insulation, and parts, materials, and accessories incidental thereto, composition boards, and parts, materials, and accessories incidental thereto*, from Deposit, N.Y., to points in Virginia, West Virginia, Georgia, Alabama, Florida, Mississippi, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 123446 (Sub-No. 23), filed October 18, 1967. Applicant: BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Avenue, Greenwich, Conn. Applicant's representative: Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, fresh (except frozen and unleavened bakery products), from Greenwich, Conn., to points in Hillsboro County, N.H., and *stale, damaged, refused, rejected, and nonsalable shipments of the above-described commodities and empty containers*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 123508 (Sub-No. 1), filed October 13, 1967. Applicant: M. AND W. CORPORATION, 301 West Commercial Street, Lowell, Ind. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials*, packaged and palletized, and in bulk, from Schneider, Ind., to points in Illinois and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 124251 (Sub-No. 20), filed October 18, 1967. Applicant: JACK JORDAN, INC., Post Office Box 244, Dalton, Ga. Applicant's representative: Ariel V. Conlin, Suite 626, Fulton National Bank Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex and latex compounds and component parts*, shipped in containers therewith, from points in Whitfield County, Ga., to points in Tennessee on and east of U.S. Highway 27, Florida, North Carolina, and South Carolina, and *rejected or refused shipments, on return*. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Chattanooga, Tenn.

No. MC 124679 (Sub-No. 11), filed October 23, 1967. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when moving in vehicles equipped with mechanical refrigeration, from Oakland, San Francisco, and Leandro, Calif., to points in Nevada, Oregon, Washington, Montana, Idaho, and Utah. NOTE: Applicant holds contract carrier authority in MC 128813 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Salt Lake City, Utah.

No. MC 124774 (Sub-No. 71), filed October 18, 1967. Applicant: CARAVELLE EXPRESS, INC., Post Office Box 384, Norfolk, Nebr. 68701. Applicant's representative: Martin Zimmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients* (except salt and except in bulk), from points in Kansas, and La Junta and Evans, Colo., to points in Nebraska, (2) *foodstuffs*, nonfrozen, from Madison, Nebr., to points in Colorado, and (3) *foodstuffs*, edible and inedible, between Norfolk and Lincoln, Nebr., on the one hand, and, on the other, points in Kansas, Iowa (except Waterloo, Sioux City, Onawa, Oakland, Ottumwa, and Des Moines), Minnesota (except Worthington, Mankato, and Albert Lea), Wisconsin, and Kentucky. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 124813 (Sub-No. 44), filed October 16, 1967. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients* (except liquids in bulk), from the plantsite, warehouses, and storage facilities utilized by Terra Chemicals International, Inc., located in Woodbury County, Iowa, to points in Colorado, Illinois, Kansas, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant is authorized to operate as a contract carrier in MC 118468 Sub 16 and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 125708 (Sub-No. 76), filed October 13, 1967. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Illinois, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Virginia, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 126739 (Sub-No. 5), filed October 19, 1967. Applicant: MAHNENSMITH TRUCKING SERVICE, INC., Post Office Box 341, Ossian, Ind. 52161. Applicant's representative: Robert S. McCain, 18th Floor Lincoln Tower, Fort Wayne, Ind. 46802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizers*, from plantsite of Tuloma Gas Products Co., at Yoder, Ind., to points in Michigan on and south of Michigan Highway 21, under contract with Tuloma Gas Products Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 127616 (Sub-No. 12), filed October 18, 1967. Applicant: HANSON M. SAVAGE, doing business as Savage Trucking Co., Box 105, Chester Depot, Vt. 05144. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from points in Windsor

and Bennington Counties, Vt., to Mechanicville, and Ticonderoga, N.Y., Berlin and Groveton, N.H., and Westbrook, Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt.

No. MC 127705 (Sub-No. 10), filed October 9, 1967. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass and plastic containers and accessories* therefor, from Dunkirk, Ind., to points in Maryland, New Jersey, New York, Pennsylvania, and Ohio and *returned shipments* on return; and (2) *materials and supplies used in the manufacture of glass and plastic containers* (except commodities in bulk), from points in Maryland, New Jersey, New York, Pennsylvania, and Ohio to Dunkirk, Ind. NOTE: Applicant holds contract carrier authority in MC 123934 Subs 10, 15, and 16, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Indianapolis, Ind., or Pittsburgh, Pa.

No. MC 127705 (Sub-No. 12), filed October 18, 1967. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 511 Fidelity Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Knox, Marienville, Parker, and points in Elk Township, Pa., to points in West Virginia. NOTE: Applicant holds contract carrier authority under MC 123934 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128247 (Sub-No. 4), filed October 18, 1967. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunker Hill, Ind. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and dross*, from Kokomo, Ind., to points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland, and (2) *machinery, n.o.i., machinery parts, n.o.i., mill rolls, iron and steel, ingots, iron and steel, carrier shipping reels, cleaning compounds, and lubricants*, on return, under contract with Continental Steel Corp., Kokomo, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 128273 (Sub-No. 14), filed October 17, 1967. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials, equipment, and supplies used in the manufacture and distribution of the foregoing commodities* except commodities in bulk, and commodities which, due to size and weight, require use of specialized motor vehicle equipment), between points in Little River County, Ark., on the one hand, and, on the other, points in Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, New Mexico, Colorado, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128341 (Sub-No. 2), filed October 19, 1967. Applicant: GALE L. HELBLING, 1455 Penn Avenue, New Brighton, Beaver County, Pa. 15066. Applicant's representative: Jerome Solomon, 1302 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastics and plastic forms and shapes* (except commodities in bulk), from the Borough of New Brighton, Beaver County, Pa., to points in Maine, Vermont, New Hampshire, Rhode Island, Connecticut, Massachusetts, Maryland, Virginia, West Virginia, South Carolina, Georgia, Florida, Tennessee, Kentucky, Alabama, Wisconsin, Michigan, and the District of Columbia, under contract with Tuscarora Plastics, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 128919 (Sub-No. 2), filed September 12, 1967. Applicant: FRANK WEHE, 974 East Barnard, Blythe, Calif. 92225. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities which because of size or weight require the use of special equipment*, between points in that part of Arizona bounded on the north by the Colorado River, on the east by the eastern boundaries of Mohave and Yuma Counties, and on the south by the U.S.-Mexico International Boundary line; and that part of California bounded on the north by the California-Nevada State line, on the west by a north-south line beginning at the said State line directly north of Nipton, Calif., and extending south through Nipton and Desert Center to the northern boundary of Imperial County, thence west along the northern boundary of Imperial County to the Imperial-San Diego, Calif., County line, thence south along the Imperial-San Diego County line to the U.S.-Mexico International Boundary line, and on the south by said International Boundary line; including points on the indicated portions of the highways and county lines specified. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 129240 (Sub-No. 1), filed October 16, 1967. Applicant: ROY E. BARKER PRODUCE, INC., 121 Magnolia Street, North Little Rock, Ark. Applicant's representative: Glenn W. Jones, Jr., 1426 Donaghey Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable shipping containers*, from Little Rock, Ark., to points in Denver, Boulder, Weld, Adams, Arapahoe, Larimer, Jefferson, Douglas, Gilpin, Clear Creek, Park, Costilla, and Alamosa Counties, Colo., under contract with Little Rock Crate & Basket Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 129291 (Sub-No. 1), filed October 16, 1967. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris and Carlisle, Ky., over U.S. Highway 68, serving all intermediate points. NOTE: Applicant indicates tacking possibilities at Paris, Ky., with its pending authority under MC 129291, wherein applicant seeks authority to serve between Lexington, Ky., and the site of the Rockwell-Standard Corp. at or near Winchester, Ky. If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky.

No. MC 129380 (Sub-No. 1), filed October 20, 1967. Applicant: KINSEY MOVING & STORAGE CO., INC., 681 Whitehall Street SW., Atlanta, Ga. 30310. Applicant's representative: James L. Flemister, 1026 Fulton Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Fulton County, Ga., and points in DeKalb, Gwinnett, Barrow, Forsyth, Cherokee, Dawson, Pickens, Bartow, Paulding, Cobb, Polk, Carroll, Heard, Coweta, Fayette, Henry, Meriwether, Troup, Pike, Upson, Lamar, Monroe, Jackson, Jasper, Newton, Rockdale, Morgan, Walton, Putnam, Greene, Oconee, Gilmer, Lumpkin, Hall, Gordon, Haralson, Floyd, Whitfield, and Clarke Counties, Ga., restricted to shipments having a prior or subsequent movement in containers beyond said counties, and further restricted to pickup and delivery service incidental to and in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization of such shipments. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 129390 (Sub-No. 2), filed October 13, 1967. Applicant: S. T. WICKLIFF,

Route 2, Algona, Iowa 50511. Applicant's representative: William A. Landau, 1451 East Grand Avenue, Des Moines, Iowa 50306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar beet pulp pellets*, from Chaska, East Grand Forks, and Moorhead, Minn., and Drayton, N. Dak., to points in Iowa and Nebraska. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 129409 (Sub-No. 2), filed October 18, 1967. Applicant: FLOOK, INC., 106 Catoctin Avenue, Frederick, Md. 21701. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products and building materials*, from Hagerstown and Frederick, Md., to Washington, D.C., and points in Arlington, Loudon, Fairfax, and Prince William Counties, Va., and Alexandria and Falls Church, Va., under contract with Supreme Concrete, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129426, filed September 27, 1967. Applicant: WAYNE A. FORD, doing business as FORD TRANSFER & STORAGE CO., 217 Wall Street, Twin Falls, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Overseas boxes, containing household goods and personal effects*, in providing a local pickup, delivery and transfer service, when moving on through bills of lading of an exempt freight forwarder, between points within a 100-mile radius of Twin Falls, Idaho. NOTE: If a hearing is deemed necessary, applicant requests it be held at Twin Falls or Boise, Idaho.

No. MC 129428 (Clarification), filed September 28, 1967, published in the FEDERAL REGISTER issue of October 19, 1967, and republished as clarified, this issue. Applicant: BEELINE DELIVERY CORP., Post Office Box 99, Cos Cob, Conn. 06807. Applicant's representative: Martin L. Nigro, 248 Greenwich Avenue, Greenwich, Conn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used by interior decorators and antique dealers and *household goods* limited to not more than 500 pounds from any one shipper, between points in Fairfield County, Conn., on the one hand, and, on the other, points in Massachusetts, New York, New Jersey, and Pennsylvania. NOTE: The purpose of this republication is to reflect that points in Fairfield *County*, Conn., was intended as the base area in the scope of the authority sought as previously published. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Hartford, Conn.

No. MC 129440, filed October 5, 1967. Applicant: GEORGE T. GEAHOS, doing business as PIXIE FROZEN FOODS, 7171 West Gunnison, Harwood Heights, Ill. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods, meat, meat products, butter and bakery goods*, and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moved in the same vehicle at the same time with food products in (1) above, between Chicago, Ill. (except points in Indiana within the Chicago, Ill., Commercial Zone), and the plantsite of American Fruit & Produce Co., located at Minneapolis, Minn., under contract with American Fruit & Produce Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129444, filed October 6, 1967. Applicant: KNOBLOCK TRUCKING CO., INC., Yaphank Avenue, Brookhaven, N.Y. 11719. Applicant's representatives: Morton E. Kiel, 140 Cedar Street, New York, N.Y., and Douglas Miller, Meadow Brook Bank Building, Malverne, N.Y. 11565. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by whole, chain, and retail food business houses and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except liquid commodities in bulk, in tank vehicles), from Ridgefield, N.J., to points in Nassau and Suffolk Counties, N.Y., and *returned shipments* of the above specified commodities, on return, under contract with Corn Products Co. NOTE: Applicant's president, Fred Knoblock, holds contract authority in MC 41498 and Sub 3 thereunder, and is shown as transferor in pending application MC-FC 69990, filed September 23, 1967. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129450, filed October 9, 1967. Applicant: DENNIS LINN, 912 West Duke Street, Hugo, Okla. 74743. Applicant's representative: James Bounds, 202 North Second Street, Hugo, Okla. 74743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated wood products, finished or unfinished lumber*, between Hugo, Okla., on the one hand, and, on the other, points in Texas, New Mexico, Kansas, and Missouri, under contract with R. M. Fry Lumber Co., Inc. NOTE: Applicant indicates tacking possibilities with its Oklahoma State Certificate, which permits such hauling to and from all points in Oklahoma. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 129457, filed October 6, 1967. Applicant: SPEEDLINE TRUCKING, INC., 45 Oakland Avenue, Amsterdam, N.Y. 12010. Applicant's representative: L. Murray Doody, Jr., 75 State Street, Albany, N.Y. 12207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated cartons, interior parts, and components*, knocked down flat, from shipper's plant in the city of Amsterdam, N.Y., to shipper's customers located in the counties of Bennington, Rutland, Addison, and Chittenden, Vt.; county of Berkshire, Mass.; city of Trenton, N.J., and community of Myerstown, Pa., and (2) *returned, refused, and rejected shipments* on return, under contract with General Fibre Box Co., Amsterdam, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Amsterdam or Albany, N.Y.

No. MC 129458, filed October 19, 1967. Applicant: S & D EXPRESS, INC., 5221 South Highway No. 37, Bloomington, Ind. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by vehicle, over irregular routes, transporting: (1) *Tents, tent poles, tent pins, metal tent pins, tent frames, tent liners, tarpaulin and canvas goods, canteen cups, rod insect bars and clips and clamps going therewith, snap links, and cargo shelf support* (for back packs), from Bedford, Indianapolis, and Gosport, Ind., to U.S. Government depots at Ogden, Utah; Mechanicsburg (Cumberland County), Pa.; Atlanta, Ga.; Memphis, Tenn.; Richmond, Va.; New Orleans, La.; Los Angeles and San Francisco, Calif., (2) *canvas goods (rolls or bales), screening, webbing, and other fabric products for use in manufacturing tents, tent liners, tarpaulins, and canvas goods*, from Richmond, Va.; Mechanicsburg (Cumberland County), Pa.; and New Orleans, La., to Indianapolis and Gosport, Ind., (3) *iron and steel, and iron and steel products*, from Chicago, Chicago Heights, and Crystal Lake, Ill.; Pittsburgh, Pa.; and Lorain, Ohio, to Bedford, Ind., (4) *metal meter boxes*, and *meter transformer boxes*, from Bedford, Ind., to Dayton and Lima, Ohio, (5) *machinery and machine tools*, between Bedford, Ind., on the one hand, and, on the other, points in Illinois, Michigan, Ohio, and Kentucky, and (6) *machine shop speciality products*, from Bedford, Ind. to points in Illinois, Michigan, Ohio, and Kentucky, under contract with Maco Tool & Engineering, Inc., Bedford, Ind., and Hoosier Tarpaulin & Canvas Goods Co., Inc., Indianapolis, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 129462, filed October 12, 1967. Applicant: NEVARES EXPRESS SHIPPING, INC., 560 Claremont Parkway, Bronx, N.Y. 10457. Applicant's representative: Saul Glassman, 66 Court Street, Brooklyn, N.Y. 11201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* and *personal effects*, between points within the exempt New York, N.Y., Commercial Zone wherein operations are exempt from economic regulations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129464, filed October 16, 1967. Applicant: MALABE SHIPPING CO.,

INC., 47 Bergen Street, Brooklyn, N.Y. 11201. Applicant's representative: Morris Honig, 150 Broadway, New York, N.Y. 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, and motor vehicles, parts, supplies, and accessories thereof*, between points in the New York, N.Y., harbor areas as defined by the Commission. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 129468, filed October 13, 1967. Applicant: DOY REIDHEAD, Box 364, Show Low, Ariz. 85901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from Show Low, Ariz., to points in Oklahoma, New Mexico, and Texas, and (2) from Nutrioso to Show Low, Ariz., under contract with Reidhead Lumber Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Show Low, Globe, or Phoenix, Ariz.

No. MC 129473 (Sub-No. 1), filed October 18, 1967. Applicant: R. D. ALLISON, doing business as ALLISON TRANSFER CO., 703 East Ashley Street, Post Office Box 31, Station G, Jacksonville, Fla. 32203. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, restricted to shipments having an immediately prior or subsequent movement in containers by rail, motor, water or air, and *empty containers* having an immediately prior or subsequent movement by rail, motor, water or air, between points in Florida. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 129474, filed October 13, 1967. Applicant: ALBERT G. PULIZ, WILLIAM EUART HIBBITT, AND DAVID MACAULAY, a Partnership, doing business as LAWRENCE MAYFLOWER MOVING & STORAGE CO., 2730 East Fourth Street, Post Office Box 37, Reno, Nev. 89504. Applicant's representative: Edward J. Hegarty, Shell Building, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, from junction Nevada Highway 28 and the California-Nevada State line, at or near Crystal Bay, Nev., along Nevada Highway 28 to junction U.S. Highway 50, at or near Glenbrook, Nev., thence northeasterly along U.S. Highway 50 to junction Alternate Interstate Highway 95, at or near Silver Springs, Nev., thence northerly along Alternate Interstate Highway 95 to junction Interstate Highway 80, at or near Fernley, Nev., thence northwesterly along Interstate Highway 80 to junction Nevada Highway 34, at or near Wadsworth, Nev., thence northerly along Nevada Highway 34 to junction Nevada Highway 33, at or near Nixon, Nev., thence from Nixon, Nev., along an imaginary line due west to junction with the California-Nevada State line, thence southerly along the California-Nevada State line to point of beginning. Restriction: The service authorized herein is restricted to the transportation of shipments both (1) having a prior or subsequent out-of-State movement by rail, motor, water or air, and (2) to pick-up and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating and decontainerization of such shipments. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev.

No. MC 129479, filed October 18, 1967. Applicant: ROGER GREEN, doing business as SUPERIOR MOTOR FREIGHT, 2130 Bel Aire Avenue, Duluth, Minn. 55803. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Millwork, custom wood and plastic casework, plastic countertops and miscellaneous items*, from Superior, Wis., to points in Minnesota, under contract with Erlanson Lumber Co., Superior, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Superior, Wis., or Duluth, Minn.

MOTOR CARRIER OF PASSENGERS

No. MC 67629 (Sub-No. 4) (Clarification), filed August 23, 1967, published FEDERAL REGISTER issue of September 14, 1967, clarified and republished as clarified this issue. Applicant: NORTHERN TRANSPORTATION CO., a corporation, 218 North Fifth Avenue, Virginia, Minn. 55792. Applicant's representative: Joseph J. Dudley, E-1506 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, their baggage and express*, from Virginia, to Tower, Minn., over Highway No. 135 and return and serving the following intermediate points; Gilbert, McKinley, Biwabik, Aurora, Four Corners (2 miles west of Embarrass), Wahlsten, and Tower, Minn. NOTE: This application is accompanied by a request for revocation of a portion of its existing authority in the event the instant application is granted, which reads as follows: From Virginia, Minn., to Tower, Minn., over Highway 169 serving all intermediate points. The purpose of this republication is to clearly set forth the note described above. If a hearing is deemed necessary, applicant requests it be held at Duluth or Virginia, Minn.

APPLICATION OF WATER CARRIER

No. W-630 (Sub-No. 31), A. L. MECHLING BARGE LINES, INC., EXTENSION—VICTORIA CHANNEL, filed October 23, 1967. Applicant: A. L. MECHLING BARGE LINES, INC., 51 North Desplaines Street, Joliet, Ill. 60431. Applicant's representative: J. Richard Hommrich (same address as applicant). Application of A. L. Mechling Barge Lines, Inc., filed October 23, 1967, for a revised certificate authorizing extension of its operations to include operation as a *common carrier*, by water in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, in year-round operation between ports on the Victoria Channel, from and including Victoria, Tex., to the Gulf Intracoastal Waterway.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 19227 (Sub-No. 122), filed October 13, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representatives: J. Fred Dewhurst, Post Office Box 602, Biscayne Annex, Miami, Fla. 33152, and Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, Tennessee, North Carolina, South Carolina, Florida, Virginia, and West Virginia.

No. MC 19227 (Sub-No. 123), filed October 15, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Kentucky, Missouri, Illinois, Indiana, Ohio, Wisconsin, Minnesota, Iowa, and Michigan.

No. MC 19227 (Sub-No. 124), filed October 18, 1967. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, Fla. 33152. Applicant's representative: J. Fred Dewhurst, Post Office Box 602, Biscayne Annex, Miami, Fla. 33152, or Armlon Leonard (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Refuse, trash, and waste disposal and handling equipment*, between Sun Valley and Pico Rivera, Calif., on the one hand, and, on the other, points in Arizona, New Mexico, Texas, Nebraska, Kansas, Oklahoma, Colorado, Nevada, Oregon, Washington, Utah, Montana, and Idaho.

No. MC 42405 (Sub-No. 27), filed September 28, 1967. Applicant: MISTLETOE EXPRESS SERVICE, doing business as MISTLETOE EXPRESS, 111 Harrison Avenue, Oklahoma City, Okla. 73101. Applicant's representative: Max G. Morgan, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives), moving in express service, between Wichita Falls, Tex., and

Waurika, Okla., from Wichita Falls over Texas Highway 79 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to Waurika, serving no intermediate points, as an alternate route for operating convenience only.

No. MC 83539 (Sub-No. 220), filed October 17, 1967. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, Dallas, Tex. 75222. Applicant's representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and fluid coolers*, which because of size or weight require the use of special equipment, and *cooling towers, fluid coolers, and parts and accessories* for cooling towers and fluid coolers which do not require the use of special equipment, when moving in the same vehicle with cooling towers and fluid coolers which because of size or weight require the use of special equipment, from the plantsites of The Marley Co. at or near Stockton, Calif., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming.

No. MC 110525 (Sub-No. 846), filed October 19, 1967. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005, and Edwin H. van Deusen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrogen peroxide*, in bulk, in tank vehicles, from Rochester, N.Y., to Geneseo, N.Y. NOTE: Common control may be involved.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12871; Filed, Nov. 1, 1967; 8:45 a.m.]

[S.O. 994, ICC Order 2, Amdt. 1]

FRANKFORT & CINCINNATI RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 2 (Frankfort & Cincinnati Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 2 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 30, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 67-12946; Filed, Nov. 1, 1967; 8:47 a.m.]

[S.O. 994, ICC Order 4, Amdt. 1]

CHICAGO, BURLINGTON AND QUINCY RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 4 (Chicago, Burlington & Quincy Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 4 be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1967, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1967, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 30, 1967.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 67-12947; Filed, Nov. 1, 1967; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 30, 1967.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

AGGREGATE-OF-INTERMEDIATES

FSA No. 41156—*Passenger Fares in Western Territory.* Filed by H. B. Siddall, alternate agent (No. 12), for interested rail carriers. This application relates to transportation of passengers, between points on lines of applicant carriers and between such points on the one hand, and points on lines of connecting carriers, on the other.

Grounds for relief—Establishment of new fares by applicant carriers and maintenance of present fares by connecting carriers.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12948; Filed, Nov. 1, 1967; 8:47 a.m.]

[Notice 484]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 30, 1967.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 623 TA), filed October 23, 1967. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Wilmington, Mass., to points in Vermont, for 180 days. Supporting shipper: Dragon Cement Co., 840 Park Square, Boston, Mass. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 41706 (Sub-No. 6 TA), filed October 23, 1967. Applicant: TOSE, INC., 64 West Fourth Street, Bridgeport, Pa. 19405. Applicant's representative: Thomas A. Mulroy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *parcels and packages*, no single parcel or package to exceed 50 pounds, nor an overall dimension of 6 cubic feet, restricted to transportation from retail department stores; from Wilmington, Del., Upper Darby, Pa., and points in Philadelphia

and Montgomery Counties, Pa., to points in New Jersey bounded by the Delaware River, Woodstown, Clayton, Atco, Mount Holly and Burlington; from Moorestown, N.J., and Wilmington, Del., to points in Philadelphia, Montgomery, Delaware, Bucks, and Chester Counties, Pa.; *damaged and exchanged merchandise and items for storage, on return,* for 150 days. Supporting shippers: Gimbel Brothers, Eighth and Market Streets, Philadelphia, Pa. 19105; John Wanamaker, 13th and Market Streets, Philadelphia, Pa. 19107. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 81818 (Sub-No. 7 TA), filed October 23, 1967. Applicant: MARSH TRUCKING COMPANY, INC., 16621 Broadway, Maple Heights, Ohio 44137. Applicant's representative: Edwin C. Reminger (same address as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Caskets,* finished (metal, wood, or copper) unboxed, unwrapped, from Chicago, Ill., to Denver, Colo., for 180 days. Supporting shipper: F. H. Hill Co., Inc., 2274 St. Clair Avenue, Cleveland, Ohio. Send protests to: District Supervisor G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 435 Federal Building, 215 Superior Avenue, Cleveland, Ohio 44114.

No. MC 97357 (Sub-No. 20 TA), filed October 19, 1967. Applicant: ALLYN TRANSPORTATION COMPANY, 14011 South Central Avenue, Los Angeles, Calif. 90059. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia,* in bulk, in tank vehicle; from El Centro, Imperial County, Calif.; to points in Nevada and to ports of entry in California on the United States-Mexico international boundary line, for 150 days. Supporting shipper: Vallye Nitrogen Producers, Inc., Post Office Box 128, Helm, Calif. 93627. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 111720 (Sub-No. 6 TA), filed October 23, 1967. Applicant: RAY WILLIAMS AND ARLENE WILLIAMS, a partnership doing business as WILLIAMS TRUCK SERVICE, 2800 East 11th Street, Post Office Box 40, Sioux Falls, S. Dak. 57103. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities* used by packinghouses, as defined in appendix I, Ex Parte MC-45, 61 M.C.C. 209, 766, from the plantsites of John Morrell & Co., at Sioux Falls and Madison, S. Dak., to points in Ohio, except Toledo, Columbus, and Dayton; Pennsylvania, except Pittsburgh; Michigan, Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, and West Virginia, for 180 days. Supporting shipper: John Morrell & Co., 1400 North Weber Avenue, Sioux Falls, S. Dak. 57103, Claude Stewart, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 112750 (Sub-No. 249 TA), filed October 23, 1967. Applicant: AMERICAN COURIER CORPORATION, 222-17 North Boulevard, De Bevoise Building, Bayside, N.Y. 11361. Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except coin, currency, and negotiable securities) as are used in the business of banks and banking institutions, (1) between Vineland, Cumberland County, N.J., on the one hand, and, on the other, Philadelphia, Pa.; and (2) between Terre Haute, Ind., on the one hand, and, on the other, points within a 60-mile radius, including Crawford, Jasper, Cumberland, Coles, Clark, Moultrie, Douglas, Edgar, Shelby, Effingham, and Richland Counties, Ill., for 180 days. Supporting Shippers: Citizens State Bank, Vineland, N.J. 08360; The Citizens National Bank of Paris, Paris, Ill.; The Edgar County National Bank of Paris, Paris, Ill. 61944; Terre Haute First National Bank, Terre Haute, Ind. 47808. Send protests to: E. N. Carignan. District Supervisor, Bureau of Operations, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 116077 (Sub-No. 220 TA), filed October 23, 1967. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Street, Zip 77023, Houston, Tex. 77011, Post Office Box 9527. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asphalt,* in bulk, in tank vehicles; from Port Arthur, Tex., to points in Louisiana; for 180 days. Supporting shipper: Bitucote Products Co. (Mr. Herb Warren, manager road sales), Post Office Box 7145, Little Rock, Ark. 72205. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 116273 (Sub-No. 99 TA), filed October 23, 1967. Applicant: D&L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery, 3800 South Laramie, Cicero, Ill. 60650. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid cleaning compound,* in bulk, in tank vehicles; from Muskegon, Mich., to Kansas City, Kans.; for 150 days. Supporting shipper: Lakeway Chemicals, Inc., Muskegon, Mich. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 116314 (Sub-No. 12 TA), filed October 24, 1967. Applicant: MAX BINSWANGER TRUCKING, 13846 Alondra Boulevard, Sante Fe Springs, Calif. 90670. Applicant's representative: Carl Fritze, 1010 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* in bulk, from the plantsite of Pacific Western Industries, Inc., near Gorman, Calif., to points in Nevada and Arizona, for 180 days. Supporting shipper: Pacific Western Industries, Inc., 3810 Wilshire Boulevard, Los Angeles, Calif. 90005. Send protests to: District Supervisor, John E. Nance, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 3000 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 119641 (Sub-No. 68 TA), filed October 20, 1967. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Post Office Box 471, Fowler, Ind. 47944. Applicant's representative: Robert J. McGriff (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including tractors with vehicle beds, bed frames or fifth wheels); (2) *industrial and construction machinery and equipment;* (3) *equipment* designed for use in connection with tractors; (4) *trailers* designed for the transportation of the commodities described above (other than those designed to be drawn by passenger automobiles); (5) *attachments* for the commodities described above; (6) *internal combustion engines,* and; (7) *parts and accessories* of the commodities described in (1) above through; (6) above when moving in mixed loads with such commodities; from the plant and warehouse sites of Massey-Ferguson, Inc., at or near Cuyahoga Falls, Ohio, to points in Alabama, Florida, Mississippi, New York, Maine, Massachusetts, Maryland, Pennsylvania, Ohio, Indiana, Georgia, South Carolina, North Carolina, Kentucky, Virginia, Vermont, New Hampshire, Connecticut, Rhode Island, Michigan, Tennessee, West Virginia, New Jersey, Delaware, Louisiana, Wisconsin, Minnesota, Iowa, Missouri, Illinois, Arkansas, North Dakota, South Dakota, Nebraska, Oklahoma, Texas, and Kansas. Restriction: The authority requested above is restricted to traffic originating at the plant and warehouse sites of Massey-Ferguson, Inc., for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 124692 (Sub-No. 43 TA), filed October 24, 1967. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and lumber products,* from points in

Wisconsin, south of U.S. Highway 8 and on and west of U.S. Highway 45, to points in Nebraska and South Dakota, for 180 days. Supporting shipper: Bennett-Daniels Lumber Co., Inc., Dorchester, Wis. 54425. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 128247 (Sub-No. 5 TA), filed October 24, 1967. Applicant: BURSAL TRANSPORT, INC., Rural Route No. 1, Bunker Hill, Ind. 46914. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, and dross*, from the plantsite of Continental Steel Corp. at Kokomo, Ind., to points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland; and (2) *machinery, machinery parts, mill rolls, iron and steel; ingots, iron and steel; carrier shipping reels; cleaning compounds and lubricants*, from points in Minnesota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, and Maryland to the plantsite of Continental Steel Corp. at Kokomo, Ind., for 180 days. Supporting shipper: Continental Steel Corp., Kokomo, Ind. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 128305 (Sub-No. 3 TA), filed October 23, 1967. Applicant: STALCUP TRUCKING, INC., 795 Teakwood, Coos Bay, Oreg. 97420. Applicant's representative: John G. McLaughlin, Pacific Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Wood chips*, from points in Coos and Curry Counties, Oreg., to Coos Bay, Oreg., for 180 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 129416 (Sub-No. 1 TA), filed October 23, 1967. Applicant: B.D.C. LTD., 20 Sheffield Street, Toronto, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the conduct and operation of banks and banking institutions, between Buffalo, N.Y., on the one hand, and the Canadian-United States international boundary at ports of entry at either Fort Erie or Niagara Falls, N.Y., on the other, for 150 days. Supporting shippers: (1) The Bank of Nova Scotia, Toronto 1, Ontario, Canada; (2) The Toronto-Dominion Bank, 55 King Street West and Bay Street, Toronto 1, Ontario, Canada. Send protests to: District Supervisor George M. Parker, Bureau of Operations, Interstate Commerce Commission, 518 Federal Office Bldg., 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 129368 (Sub-No. 1 TA), filed October 23, 1967. Applicant: O'BRIEN TRANSPORT CORPORATION, 720 West Witzel Avenue, (Mail to: Post Office Box 437), Oshkosh, Wis. 54901. Applicant's representative: B. J. Osweller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood preservative oil*, in bulk, in tank vehicles, from Oshkosh, Wis., to Ironwood, Mich., for 150 days. Supporting shipper: The Cook & Brown Lime Co., 2950 Bradley Street, Oshkosh, Wis. 54901 (Rufus C. Brown, president). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 129477 TA, filed October 20, 1967. Applicant: RICHARDS TRANSPORTATION COMPANY, INC., Port Richards, Savage, Minn. 55378. Applicant's representative: Sidney S. Feinberg, 400 Rand Tower, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Black oils*, bulk; from Superior, Wis., to all points in Minnesota, for 180 days. Supporting shipper: Richards Oil Co., Port Richards, Savage, Minn. 55378. Send protests to: C. H. Bergquist, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 129484 TA, filed October 24, 1967. Applicant: MELVIN WANG, doing business as MELVIN WANG TRUCKING, Fertile, Minn. 56540. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid fertilizer ingredients*, in bulk, in tank vehicles; from Crookston, Minn., to points in North Dakota, and from Grafton, N. Dak., to points in Minnesota; for 180 days. Supporting shipper: Fert-L-Flow, Inc., Crookston, Minn. Send protests to: Joseph H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1621 South University Drive, Room 213, Fargo, N. Dak. 58102.

No. MC 129451 (Sub-No. 1 TA), filed October 24, 1967. Applicant: GRAY LINE SIGHTSEEING TOURS, INC., 540 Northwest 10th Street, Miami, Fla. 33136. Applicant's representative: John T. Bond, 1955 Northwest 17th Avenue, Miami, Fla. 33125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* in a sightseeing and charter service to, from, and between points and places in Florida; for 180 days. Supporting shippers: Capri Realty, Inc., 17220 Collins Avenue, Miami Beach, Fla.; Tropical Travel Bureau, Inc., 3001 East Las Olas Boulevard, Fort Lauderdale, Fla.; American Automobile Association, East Florida Division, 2898 Biscayne Boulevard, Miami, Fla.; Fergis Travel Service, 336 Biscayne Boulevard, Miami, Fla.; Universal Tours Corp., 2703 Biscayne Boulevard, Miami, Fla.; Seaboard Coast Line Railroad, 2206 Northwest Seventh Avenue, Miami, Fla.; United Tours, Inc., 59 Southeast Eighth Street, Miami, Fla.; Eastern Steamship Lines, Inc., Pier 2, Miami, Fla.; American Express Co., 330 East Flagler Street, Miami, Fla.; British West Indiana Airways, 312 Northeast First Street, Miami, Fla.; Scandinavian Airlines System, 100 Biscayne Boulevard, Miami, Fla. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 129487 TA, filed October 25, 1967. Applicant: JOHN D. JOHNSON, 3381 Sunnybrook Avenue South, Jacksonville, Fla. 32205. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Clay*, in bags, from Wrens, Macon, McIntyre, Meigs, and Attapulgus, Ga., to Jacksonville, Fla. for 150 days. Supporting shipper: Florida Agricultural Supply Co., Post Office Box 658, 1611 Talleyrand Avenue, Jacksonville, Fla. 32201. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Federal Office Building, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-12949; Filed, Nov. 1, 1967; 8:48 a.m.]

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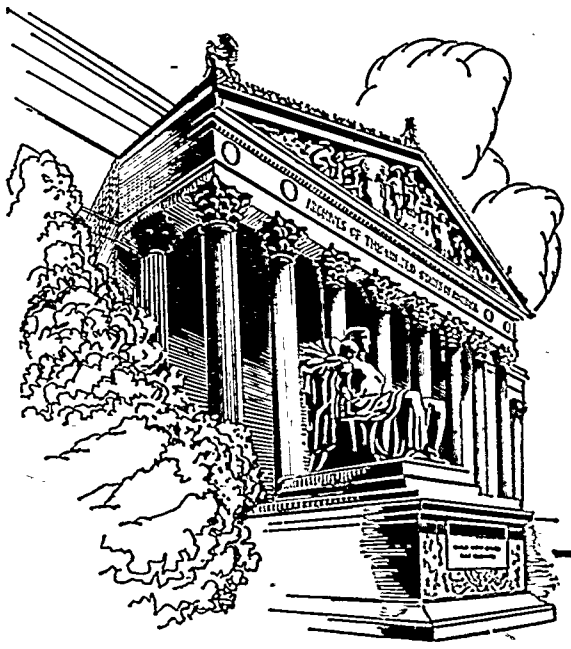
PART II

Department of Commerce
Office of the Secretary



Employee Responsibilities and Conduct

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

The Civil Service Commission has published in 32 F.R. 8281 its amendments to Title 5, Part 735, of the Code of Federal Regulations, entitled "Employee Responsibilities and Conduct." To conform its own regulations on Employee Responsibilities and Conduct, the Department is hereby amending Part 0 of Subtitle A, Title 15, Code of Federal Regulations.

Part 0 is amended in the following respects: § 0.735–11(c) is deleted and the provisions thereof transferred to a new § 0.735–10a; § 0.735–11(d) is amended to indicate the circumstances under which a gift to an official superior may be allowed; paragraph (e)(1) of § 0.735–12 is deleted and the provisions thereof transferred to § 0.735–11(f) and amended to show that the exception does not necessarily allow non-Government reimbursement for travel on official business under agency orders; § 0.735–11 (d) and (e) are amended to correct obsolete statutory references and to cite pertinent Departmental regulations; § 0.735–21 is amended to limit the types of questions on a statement of employment and financial interests; §§ 0.735–22 and 0.735–23 are amended to restrict the requirements relative to reporting employment and financial interests to those employees in positions in which the possibility of conflicts-of-interest involvement is clear; § 0.735–22a is added to make clear the availability to employees of the Department's grievance procedure for settling questions concerning the applicability of the reporting requirement; § 0.735–25 is amended to eliminate quarterly supplementary statements; § 0.735–29 is amended to assure the confidentiality of statements submitted; §§ 0.735–35 and 0.735–36 are amended to modify an employee certification requirement, and to correct a typographical error; Appendix A is amended to up-date statutory references and to add a reference to 18 U.S.C. 219; and Appendices B and C are added to specify the categories of positions in which the incumbents are required to submit statements of employment and financial interests.

These amendments were approved by the Civil Service Commission on October 4, 1967, and are effective upon publication in the FEDERAL REGISTER.

The Department is reissuing the entire Part 0 as amended so that it will be available as a single document. Since this regulation is a rule of agency practice and procedure, notice and public procedure hereon are not required.

Accordingly, the Department hereby reissues Part 0 of the Regulations (15 CFR Subtitle A, Part 0), effective upon publication in the FEDERAL REGISTER as follows:

Subpart A—General Provisions

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0.735–1 Purpose.
0.735–2 Relation to basic provisions.
0.735–3 Applicability.
0.735–4 Definitions.

Subpart B—General Policy

0.735–5 General principles.
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0.735–8 Limitations on private activities and interests.

Subpart C—Statutory Limitations Upon Employee Conduct

0.735–9 Employee responsibilities.

Subpart D—Regulatory Limitations Upon Employee Conduct

0.735–10 Administrative extension of statutory limitations.
0.735–10a Proscribed actions.
0.735–11 Gifts, entertainment, and favors.
0.735–12 Outside employment or other activity.
0.735–13 Financial interests.
0.735–14 Use of Government time or property.
0.735–15 Misuse of employment or information.
0.735–16 Indebtedness.
0.735–17 Gambling, betting, and lotteries.
0.735–18 General conduct prejudicial to the Government.
0.735–19 Reporting undue influence to superiors.

Subpart E—Statements of Employment and Financial Interests

0.735–20 General provisions.
0.735–21 Form and content of statements.
0.735–22 Employees required to submit statements.
0.735–22a Employee's complaint on filing requirement.
0.735–23 Employees not required to submit statements.
0.735–24 Time and place for submission of original statements.
0.735–25 Supplementary statements.
0.735–26 Interests of employees' relatives.
0.735–27 Information not known by employees.
0.735–28 Information not required.
0.735–29 Confidentiality of employees' statements.
0.735–30 Relation of this part to other requirements.
0.735–31 Special Government employees.

Subpart F—Supplementary Regulations

0.735–32 Departmental.
0.735–33 Operating units.
0.735–34 Effective date of supplementary regulations.

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0.735–37 Procedure.
0.735–38 Availability for counseling.
0.735–39 Authorizations.
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0.735–41 Inquiries and exceptions.

Appendix A—Statutes Governing Conduct of Federal Employees.

Appendix B—Position Categories, Grade GS–13 and Above, Requiring Statements of Employment and Financial Interests By Incumbents.

Appendix C—Position Categories Below GS–13 Requiring Statements of Employment and Financial Interests By Incumbents.

AUTHORITY: The provisions of this Part 0 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

Subpart A—General Provisions

§ 0.735–1 Purpose.

The purpose of this part is to set forth Department of Commerce policy and procedure relating to employee responsibilities and conduct.

§ 0.735–2 Relation to basic provisions.

(a) This part implements the following:

(1) The provisions of law cited in this part;

(2) Executive Order 11222 of May 8, 1965 (3 CFR, 1965 Supp. p. 130);

(3) Part 735 of the Civil Service regulations (5 CFR 735.101–735.412, inclusive).

(b) This part prescribes additional standards of ethical and other conduct and reporting requirements deemed appropriate in the light of the particular functions and activities of this Department.

§ 0.735–3 Applicability.

This part applies to all persons included within the term "employee" as defined in § 0.735–4, except as otherwise provided in this part.

§ 0.735–4 Definitions.

For purposes of this part, except as otherwise indicated in this part:

(a) "Employee":

(1) Shall include:

(i) Every officer and employee of the Department of Commerce (regardless of location), including commissioned officers of the Environmental Science Services Administration; and

(ii) Every other person who is retained, designated, appointed, or employed by a Federal officer or employee, who is engaged in the performance of a function of the Department under authority of law or an Executive act, and who is subject to the supervision of a Federal officer or employee while engaged in the performance of the duties of his position not only as to what he does but also as to how he performs his duties, regardless of whether the relationship to the Department is created by assignment, detail, contract, agreement, or otherwise.

(2) Shall not include:

(i) Members of the Executive Reserve except when they are serving as employees of the Department under the circumstances described in subparagraph (1) of this paragraph;

(ii) Members of crews of vessels owned or chartered to the Government and operated by or for the Maritime Administration under a General Agency Agreement; or

(iii) Any other person who is determined legally not to be an officer or employee of the United States.

(b) "Special Government employee" shall mean an employee as defined in paragraph (a) of this section who is retained, designated, appointed, or employed to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties on either a full-time or intermittent basis.

(c) "Personnel officer" means a personnel official to whom the power of appointment is redelegated under Administrative Order 202-250.

(d) "Operating unit" means, for purposes of this part, primary and constituent operating units designated as such in the Department Order Series of the Department of Commerce and, in addition, the Office of the Secretary.

(e) "Head of an operating unit," for the purposes of this part, includes the Assistant Secretary for Administration with respect to the performance of functions under this part for the Office of the Secretary.

Subpart B—General Policy

§ 0.735–5 General principles.

Apart from statute, there are certain principles of fair dealing which have the force of law and which are applicable to all officers of the Government. A public office is a public trust. No public officer can lawfully engage in business activities which are incompatible with the duties of his office. He cannot, in his private or official character, enter into engagements in which he has, or can have, a conflicting personal interest. He cannot allow his public duties to be neglected by reason of attention to his private affairs. Such conflicts of interest are not tolerated in the case of any private fiduciary, and they are doubly proscribed for a public trustee. (40 Ops. Atty. Gen. 187, 190.)

§ 0.735–6 Standards required in the Federal service.

5 CFR 735.101 states: "The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government."

§ 0.735–7 Special requirements of the Department.

The close and sensitive relationship between the Department of Commerce and the Nation's business community calls for special vigilance on the part of all officers and employees to avoid even any appearance of impropriety. The regulations set forth in this part have been adopted in order to promote the efficiency of the service in the light of the particular ethical and administrative problems arising out of the work of the Department.

§ 0.735–8 Limitations on private activities and interests.

It is the policy of the Department to place as few limitations as possible on private activities or interests consistent with the public trust and the effective performance of the official business of the Department. There is no general statutory or regulatory limitation on the conduct of private activities for compensation by officers or employees of the Department, when the private activity is not connected with any interest of the Government. When the private activity does not touch upon some interest, it may be conducted if it falls outside applicable statutory limitations and regulatory limitations.

Subpart C—Statutory Limitations Upon Employee Conduct

§ 0.735–9 Employee responsibilities.

Each employee and special Government employee has a positive duty to acquaint himself with the numerous statutes relating to the ethical and other conduct of employees and special employees of the Department and of the Government. Appendix A of this part contains a listing of the more important statutory provisions of general applicability. In case of doubt on any question of statutory application to fact situations that may arise, the employee should consult the text of the statutes, which will be made available to him by his organization unit, and he should also avail himself of the legal counseling provided by this part.

Subpart D—Regulatory Limitations Upon Employee Conduct

§ 0.735–10 Administrative extension of statutory limitations.

The provisions of the statutes identified in this part which relate to the ethical and other conduct of Federal employees are adopted and will be enforced as administrative regulations, violations of which may in appropriate cases be the basis for disciplinary action, including removal. The fact that a statute which may relate to employee conduct is not identified in this part does not mean that it may not be the basis for disciplinary action against an employee.

§ 0.735–10a Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 0.735–11 Gifts, entertainment, and favors.

(a) *General limitations.* Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or any other thing of monetary value, for himself or another person, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Department of Commerce;

(2) Conducts operations or activities that are regulated by the Department of Commerce; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty or by actions of the Department.

(b) *Exceptions.* The following exceptions are authorized to the limitation in paragraph (a) of this section:

(1) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value incident to obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance. For the purpose of this section, "nominal value" means that the value of the food or refreshments shall not be unreasonably high under the circumstances.

(3) Acceptance of loans from banks or other financial institutions on customary terms and on security not inconsistent with paragraph (a) of this section, to finance proper and usual activities of employees, such as home mortgage loans.

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(5) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value when such acceptance is determined by the head of the operating unit concerned to be necessary and appropriate in view of the work of the Department and the duties and responsibilities of the employee. A copy of each such determination shall be sent to the counselor of the Department.

(6) Special Government employees are covered by this section only while em-

ployed by the Department or in connection with such employment.

(c) [Reserved]

(d) *Gifts to superiors.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement. An employee who violates these requirements shall be removed from the service.

(e) *Gifts from a foreign government.* An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless acceptance is (1) authorized by Congress as provided by the Constitution and in Public Law 89-673, 80 Stat. 952, and (2) authorized by the Department of Commerce as provided in Administrative Order 202-739.

(f) *Reimbursement for travel expenses and subsistence.* Neither this section nor § 0.735-12 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967. (Requirements applicable to Department of Commerce employees are set forth in Department of Commerce Administrative Order 203-9.)

§ 0.735-12 Outside employment or other activity.

(a) *Incompatible outside employment or other outside activity.* An employee shall not engage in outside employment or other outside activity not compatible (i) with the full and proper discharge of the duties and responsibilities of his Government employment, (ii) with the policies or interests of the Department, or (iii) with the maintenance of the highest standards of ethical and moral conduct. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner;

(3) Employment with any foreign government, corporation, partnership, instrumentality, or individual unless authorized by the Department;

(4) Employment by, or service rendered under contract with, any of the persons listed in § 0.735-11(a);

(5) Receipt by an employee, other than a special Government employee, of any salary or anything of monetary value from a private source as compensation for his services to the Government. (18 U.S.C. 209)

(b) *Improper benefit from official activity.* (1) No employee of the Department shall receive compensation (e.g., an honorarium) or anything of monetary value, other than that to which he is duly entitled from the Government, for the performance of any activity during his service as such employee of the Department and within the scope of his official responsibilities.

(2) As used in this paragraph, "within the scope of his official responsibilities" means in the course of or in connection with his official responsibilities. (See 29 Comp. Gen. 163; 30 id. 246; 32 id. 454; 35 id. 354; B-131371, July 17, 1957.)

(3) An activity shall ordinarily be considered to be in the course of or in connection with an employee's official responsibilities if it is performed as a result of an invitation or request which is addressed to the Department or a component thereof, or which is addressed to an employee at his office at the Department, or which there is reason to believe is extended partly because of the official position of the employee concerned. (When in doubt, it may be asked whether it is likely that the invitation would have been received if the recipient were not associated with the Department.) Whether an employee is on leave while performing an activity shall be considered irrelevant in determining whether an activity is performed in the course of or in connection with the employee's official responsibilities.

(4) Acceptance of a gift or bequest on behalf of the Department shall be made in accordance with Department Order 3 and Administrative Order 203-9.

(c) *Teaching, lecturing, and writing.* Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222, 5 CFR Part 735, or the regulations in this part and Administrative Order 201-4, "Writing for Outside Publication," subject to the following conditions:

(1) An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Assistant Secretary for Administration or his designee gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(2) No employee shall receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Department of Commerce, or which draws substantially on official data or ideas which have not become part of the body of public information. As used in this subparagraph, "the body of public information" shall mean information which has been disseminated widely among segments of the public which may be affected by or interested in the information concerned, or which is known by such segments of the public to be freely available on request to a Government agency.

(d) *State or local government employment.* An employee may not engage in outside employment under a State or local government except in accordance with Part 734 of the Civil Service regulations (5 CFR Part 734) and Department of Commerce Administrative Order 202-734.

(e) *Application of the limitations.* This section does not preclude an employee from:

(1) [Reserved]

(2) Participation in the activities of National or State political parties not proscribed by law.

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 0.735-13 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans, and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business, which affects chiefly a person (1) by whom he has been employed or with whom he has had any economic interest within the preceding 2 years, or (2) with whom he has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization as provided for in Subpart G of this part.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive order, Civil Service regulations (5 CFR Part 735), or regulations in this part.

§ 0.735–14 Use of Government time or property.

(a) An employee shall not directly or indirectly use, or allow the use of, Government time or property of any kind, including property leased to the Government, for other than officially approved activities.

(b) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 0.735–15 Misuse of employment or information.

(a) *Use of Government employment.* An employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) *Use of inside information.* For the purpose of furthering a private interest, an employee shall not, except as provided in § 0.735–12(c), directly or indirectly use, or allow the use of, information which has been or has the appearance of having been obtained through or in connection with his Government employment and which has not been made available to the general public.

(c) *Coercion.* An employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(d) *Disclosure of restricted information.* No employee shall divulge restricted commercial or economic information, or restricted information concerning the personnel or operations of any Government agency, or release any such information in advance of the time prescribed for its authorized release.

(e) *Discrimination.* No employee, acting in his official capacity, shall, directly or indirectly, authorize, permit, or participate in any act or course of conduct which, on the ground of race, color, creed, national origin, or sex, excludes from participation, denies any benefit to, or otherwise subjects to discrimination any person under any program or activity administered or conducted by the Department or one of its units, or such employee. (See Department Order 195.)

§ 0.735–16 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For purposes of this section, "a just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which, in the view of the Department, does not, under the circumstances, reflect adversely on the Government as his employer.

(b) In the event of dispute between an employee and an alleged creditor, this section does not require the Department to determine the validity or amount of the disputed debt.

§ 0.735–17 Gambling, betting, and lotteries.

An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities (a) necessitated by an employee's law enforcement duties, or (b) under section 3 of Executive Order 10927 (relating to solicitations conducted by organizations composed of civilian employees or members of the armed forces among their own members for organizational support or for benefit or welfare funds for their own members) and similar agency-approved activities.

§ 0.735–18 General conduct prejudicial to the Government.

(a) *General policy.* Officers and employees of the Federal Government are servants of the people. Because of this, their conduct must, in many instances, be subject to more restrictions and to higher standards than may be the case in certain private employments. They are expected to conduct themselves in a manner which will reflect favorably upon their employer. Although the Government is not particularly interested in the private lives of its employees, it does expect them to be honest, reliable, trustworthy, and of good character and reputation. They are expected to be loyal to the Government, and to the department or agency in which they are employed.

(b) *Specific policy.* An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(c) *Regulations applicable to public buildings and grounds.* Each employee is responsible for knowing and complying with regulations of the General Services Administration and of the Department of Commerce applicable to public buildings and grounds.

§ 0.735–19 Reporting undue influence to superiors.

Each employee shall report to his superior any instance in which another person inside or outside the Federal Government uses or attempts to use undue influence to induce, by reason of his official Government position, former Government employment, family relationship, political position, or otherwise, the employee to do or omit to do any official act in derogation of his official duty.

Subpart E—Statements of Employment and Financial Interests

§ 0.735–20 General provisions.

(a) In order to carry out the purpose of this part, certain employees of the Department, specified in or pursuant to this part, will be required to submit statements of outside employment and financial interests for review designed to disclose conflicts of interest, apparent conflicts of interest on the part of employees, and other matters within the purview of this part.

(b) When a conflict or apparent conflict of interest on the part of an employee or other question of compliance with the provisions of this part arises and is not resolved at a lower level within the Department, e.g., by appropriate remedial action, the information concerning the matter shall be reported to the Secretary through the counselor for the Department designated in § 0.735–38.

(c) In the event of a conflict or apparent conflict of interest on the part of an employee or other question of compliance with the provisions of this part, the employee concerned shall be provided an opportunity to explain the matter. After consideration of the conflict or apparent conflict of interest or other question of compliance, and the employee's explanation thereof, appropriate action shall be taken.

§ 0.735–21 Form and content of statements.

(a) Statements of employment and financial interests shall be submitted as far as practicable on one of the following forms, as appropriate:

(1) Form CD–220, "Confidential Statement of Employment and Financial Interests (For Use by Government Employees Other Than Special Government Employees)"; or

(2) Form CD–219, "Confidential Statement of Employment and Financial Interests (For Use by Special Government Employees)."

(b) Each of the foregoing forms shall contain, as a minimum, the information required by the formats prescribed by the Civil Service Commission in the Federal Personnel Manual. Questions on a statement of employment and financial interests that go beyond, or are in greater detail than, those included on the Commission's formats may be included on a statement only with the approval of the Assistant Secretary for Administration and the Commission.

(c) [Reserved]

(d) The employee will not be required to reveal precise amounts of financial interest when such information is not necessary for a proper determination as to whether there is any apparent conflict of interest.

§ 0.735–22 Employees required to submit statements.

Except as provided in § 0.735–23, a statement of employment and financial interests shall be submitted by the following employees other than special Government employees:

(a) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of Title 5, United States Code.

(b) Employees classified at GS–13 or above under section 5332 of Title 5,

United States Code, or at a comparable pay level under another authority, who are in positions the basic duties and responsibilities of which are determined by the head of the operating unit concerned to require the incumbent to make a Government decision or to take a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

Each employee who occupies a position in one of the above-listed categories and who is not excluded from the reporting requirement shall be notified that he is subject to the reporting requirement.

(c) The following employees classified at GS–13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, not otherwise subject to paragraph (b) of this section:

(1) Employees in grade GS–16 or above, or in comparable or higher positions.

(2) Employees in Schedule C positions.

(3) Employees in hearing examiner or hearing officer positions.

(4) Persons employed as experts, consultants, or advisers.

(5) Employees in positions or categories of positions, regardless of their official title, identified in Appendix B of this part.

(d) Employees classified below GS–13 under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, who are in positions or categories of positions, regardless of their official title, identified in Appendix C to this part.

(e) *Appendices B and C.*

(1) Appendix B to this part shall be maintained and changes made therein in accordance with the criteria in 5 CFR 735.403(c) and in accordance with the procedure in this paragraph. Appendix C to this part shall be maintained and changes made therein in accordance with the criteria in 5 CFR 735.403(d) and in accordance with the procedure in this paragraph.

(2) Heads of operating units and heads of offices in the Office of the Secretary shall, in conformity with the above-cited criteria, recommend changes in Appendix B and Appendix C to the Assistant Secretary for Administration for approval. Changes in Appendix C shall be submitted, with specific justification, to the Civil Service Commission for further prior approval.

(3) Incumbents of positions added to Appendix B or to Appendix C shall become subject to the reporting requirements of this part upon receipt of notification that their position is subject to such requirements. Appendix B and Appendix C shall be republished annually to reflect changes in the lists.

§ 0.735–22a Employee's complaint on filing requirement.

An employee shall have an opportunity for review through the Department of Commerce grievance procedure, as provided by Administrative Order 202–770, of a complaint by him that his position has been improperly included under the regulations of the Department as one requiring the submission of a statement of employment and financial interests.

§ 0.735–23 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (b), (c), or (d) of § 0.735–22 may be excluded from the reporting requirement when the head of the operating unit concerned determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts-of-interest situation is remote; or

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by this part from the Secretary of Commerce, from the head of an independent agency for which the Department of Commerce performs administrative services, or from a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of Executive Order 11222.

§ 0.735–24 Time and place for submission of original statements.

(a) An employee required to submit a statement of employment and financial interests under this part shall submit that statement not later than:

(1) Ninety days after the effective date of this part if the employee is employed by the Department on or before the effective date of this part; or

(2) Thirty days after the employee's entrance on duty date, but in no case earlier than 90 days after the effective date of this part.

(b) Statements shall be submitted to a personnel officer specified by the head of the operating unit or to such other person as the head of the operating unit, with the approval of the Secretary, may specify. Secretarial officers and heads of operating units shall submit their statements to the Secretary or to such person as the Secretary may designate.

§ 0.735–25 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year, except when the Civil Service Commission authorizes a different date on a showing by the Department of necessity therefor. (The Commission has authorized filing of the supplementary statement for 1967 as of Sept. 30, 1967.) If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of Title 18, United States Code, or Subpart D of this part.

§ 0.735–26 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are members of the employee's household.

§ 0.735–27 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 0.735–28 Information not required.

This part does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 0.735–29 Confidentiality of employees' statements.

(a) No employee may have access to a statement of employment and financial interests, or a supplementary statement, unless his official duties make access necessary. Each employee who has access to such a statement is responsible for maintaining it in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to an employee of the Department of Commerce or the Civil Service Commission to carry out the purpose of this part or to other persons as the Civil Service Commission or the Assistant Secretary for Administration may determine for good cause shown. (The foregoing limitations do not apply to release of information by an employee with respect to a statement he has submitted under this section.)

(b) The employees designated in paragraph (b) of § 0.735–24 to receive statements are authorized to review and retain the statements and are responsible for maintaining the statements in confidence, as provided in this section.

§ 0.735–30 Relation of this part to other requirements.

(a) The requirement that employees submit statements of employment and financial interests and supplementary statements under this part is in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation.

(b) The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation, including this part.

§ 0.735–31 Special Government employees.

(a) Special Government employees shall be required to report:

(1) All other employment; and

(2) Financial interests specified on Form CD–219.

(b) A waiver may be granted to the requirements of this section in the case of a special Government employee who is not a consultant or expert (as defined in Chapter 304 of the Federal Personnel Manual) when a determination is made that the duties of the position held by that special Government employee are of such a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. Any such waiver shall be approved by the head of the operating unit concerned or his designee. A copy of the waiver shall be filed with the deputy counselor for the organization unit concerned.

(c) The original statement of employment and financial interests required to be submitted by a special Government employee shall be submitted not later than his entry on duty. Each special employee shall keep his statement current throughout his employment with the Department by the submission of supplementary statements.

Subpart F—Supplementary Regulations

§ 0.735–32 Departmental.

The Assistant Secretary for Administration may prescribe supplementary instructions consistent with this part.

§ 0.735–33 Operating units.

Each operating unit is hereby authorized and directed to prescribe, after approval by the Assistant Secretary for Administration, such additional regulations not inconsistent with this part as may be necessary to effectuate the general purpose of this part in the light of its individual operating requirements, including but not limited to pertinent statutory provisions, such as:

(a) 35 U.S.C. 4, 122 (Patent Office);

(b) 46 U.S.C. 1111(b) (Maritime Administration);

(c) Certain provisions of the Defense Production Act of 1950, e.g., 50 U.S.C. App. 2160(b)(2) (avoidance of conflicts of interest), 50 U.S.C. App. 2160(b)(6) (financial statements), and 50 U.S.C. App. 2160(f) (prohibition of use of confidential information for purposes of speculation) (Business and Defense Services Administration and any other primary operating unit affected); and

(d) Certain provisions of Public Law 89–136, the Public Works and Economic Development Act of 1965, e.g., section 711 (restriction on employing certain EDA employees by applicants for financial assistance), and section 710(b) (embezzlement, false book entries, sharing in loans, etc., and giving out unauthorized information for speculation).

§ 0.735–34 Effective date of supplementary regulations.

Supplementary regulations prescribed pursuant to § 0.735–33, shall become effective upon approval by the issuing officer unless a different date is required by law or a later date is specified therein.

Subpart G—Administration

§ 0.735–35 Responsibilities of employees.

It is the responsibility of each employee:

(a) To assure, at the outset of his employment, that each of his interests and activities is consistent with the requirements established by or pursuant to this part;

(b) To submit a statement of employment and financial interests at such times and in such form as may be specified in or pursuant to this part;

(c) To certify, upon entering on duty in the Department, that he has read this part and applicable regulations supplementary thereto;

(d) To obtain prior written authorization of any interest or activity about the propriety of which any doubt exists in the employee's mind, as provided in § 0.735–39;

(e) To confine each of his interests and activities at all times within the requirements established by or pursuant to this part, including any authorizations granted pursuant to this part; and

(f) To obtain a further written authorization whenever circumstances change, or the nature or extent of the interest or activity changes, in such a manner as to involve the possibility of a violation or appearance of a violation of a limitation or requirement prescribed in or pursuant to this part.

§ 0.735–36 Responsibilities of operating units.

The head of each operating unit, or his designee, shall:

(a) Furnish or make available to each employee a copy of this part (or a comprehensive summary thereof) within 90 days after approval of this part by the Civil Service Commission, and, upon their issuance, a copy of any regulations supplementary thereto (or a comprehensive summary thereof);

(b) Furnish or make available to each new employee at the time of his entrance on duty a copy of this part as it may be amended and any supplementary regulations (or a comprehensive summary thereof);

(c) Bring this part (or as it may be amended and any supplementary regulations thereto) to the attention of each employee annually, and at such other times as circumstances may warrant as may be determined by the Assistant Secretary for Administration;

(d) Have available for review by employees, as appropriate, copies of laws, Executive orders, this part, supplementary regulations, and pertinent Civil Service Commission regulations and instructions relating to ethical and other conduct of Government employees;

(e) Advise each employee who is a special Government employee of his status for purposes of 18 U.S.C. 203 and 205;

(f) Require each employee specified in § 0.735–22 to submit a statement of employment and financial interests, as provided by or pursuant to this part;

(g) Develop an appropriate form, with the approval of the counselor of the Department, on which the employee may certify that he has read this part and applicable regulations supplementary thereto, in accordance with § 0.735–35(c), and on which he may, if he so desires, indicate that he has a private activity or interest about which he requests advice and guidance as provided by § 0.735–38.

(h) Require each employee upon entering on duty and at such other times as may be specified, to execute the certification required by § 0.735–35(c);

(i) Report to the program Secretarial Officer concerned and to the Assistant Secretary for Administration promptly any instance in which an employee, after notice, fails to submit the certification required under § 0.735–35(c) or a statement of employment or financial interests required under this part within 14 calendar days following the prescribed time limit for doing so; and

(j) Take action to impress upon each employee required to submit a statement of employment and financial interests, upon his supervisor, and upon employees with whom the employee works, their responsibility as follows:

(1) The employee's supervisor is responsible (i) for excluding from the range of duties of the employee any contracts or other transactions between the Government and his outside employer, clients, or entities in which he has an interest within the purview of this part, and (ii) for overseeing the employee's activities in order to insure that the public interest is protected from improper conduct on his part and that he will not, through ignorance or inadvertence, embarrass the Government or himself.

(2) The employee's supervisor and employees with whom he works are responsible for avoiding the use of the em-

ployee's services in any situation in which a violation of law, regulation, or ethical standards is likely to occur or to appear to occur.

(3) The supervisor of an employee is responsible for initiating prompt and proper disciplinary or remedial action when a violation, intentional or innocent, is detected.

(4) Employees shall avoid divulging to a special Government employee privileged Government information which is not necessary to the performance of his governmental responsibility or information which directly involves the financial interests of his non-Government employer.

(5) An employee shall make every effort in his private work to avoid any personal contact with respect to negotiations with the Department for contracts, grants, or loans, if the subject matter is related to the subject matter of his Government employment. When this is not possible, he may participate if not otherwise prohibited by law (e.g., 18 U.S.C. 203 and 205) in the negotiations for his private employer only with the prior approval of the head of the operating unit concerned.

§ 0.735–37 Procedure.

The review of statements of employment and financial interests shall include the following basic measures, among others:

(a) Statements shall be submitted to the designated officer, who will review each employee's statement of employment and financial interests to ascertain whether they are consistent with the requirements established by or pursuant to this part. (See § 0.735–24(b).)

(b) Where the statement raises any question of compliance with the requirements of this part, it shall be submitted to a deputy counselor for the organization unit concerned. The deputy counselor may, in his discretion, utilize the advice and services of others (including departmental facilities) to obtain further information needed to resolve the questions.

(c) The designated officer shall maintain the statements of employment and financial interests in a file apart from the official personnel files and shall take every measure practicable to insure their confidentiality. Statements of employment and financial interests shall be preserved for 5 years following the separation of an employee from the Department or following termination of any other relationship under which the individual rendered service to the Department, except as may be otherwise authorized by the Assistant Secretary for Administration or as required by law.

§ 0.735–38 Availability for counseling.

(a) The General Counsel of the Department shall:

(1) Serve as the counselor for the Department of Commerce with respect to matters covered by the basic provisions cited in § 0.735–2(a) and otherwise by or pursuant to this part;

(2) Serve as the Department of Commerce designee to the Civil Service Commission on matters covered by this part; and

(3) Coordinate the counseling services provided under this part and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors designated under paragraph (b) of this section.

(b) The counselor shall designate employees who shall serve as deputy counselors for employees of the Department of Commerce with respect to matters covered by or pursuant to this part and shall give authoritative advice and guidance to each employee who seeks advice and guidance on questions of conflict of interests and other matters covered by or pursuant to this part.

(c) Each operating unit shall notify its employees of the availability of counseling services and of how and where these services are available. This notification shall be given within 90 days after approval of this part by the Civil Service Commission and periodically thereafter. In the case of a new employee appointed after the foregoing notification, notification shall be made at the time of his entrance on duty.

(d) In each operating unit a deputy counselor shall advise and counsel each employee concerning any adjustments necessary in his financial interests or activities, or in any contemplated interests or activities, in order to meet the requirements established by or pursuant to this part.

§ 0.735–39 Authorizations.

All requests for authorizations required under this part shall be addressed to the head of the operating unit concerned. In the Office of the Secretary such requests shall be addressed to the Secretary or such person as he may designate. When granted, authorizations will be in writing, and a copy of each authorization will be filed in the employee's official personnel file.

(a) In case of doubt, or upon the request of the employee concerned, cases or questions will be forwarded to the counselor or a deputy counselor. (See § 0.735–38.)

(b) Where an activity requested to be authorized can be conducted as official business, it shall not be authorized as a private activity, but shall be conducted as official business.

(c) Where authorizations involve speaking, writing, or teaching, use of the official title of the employee for identification purposes may be authorized, provided the employee makes it clear that his statements and actions are not of an official nature.

(d) If an authorization has been granted for a specific activity or interest, and the activity or interest is subsequently deemed to constitute a violation of the limitations or requirements prescribed in or pursuant to this part, the employee concerned shall be notified in writing of the cancellation of the authorization and shall modify or stop the activity or interest involved, as requested.

§ 0.735–40 Disciplinary and other remedial action.

(a) Violation of a requirement established in or pursuant to this part shall be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee provided by § 0.735–20(c), the reviewing officer, in cooperation with the responsible supervisory official, decides that remedial action is required, he will take or cause to be taken immediate action to end the conflict or appearance of conflict of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of his conflicting interest;

(3) Disciplinary action (including removal from the service); or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive orders, and regulations.

(c) No disciplinary or remedial action may be taken under this section against an employee of another Federal department or agency on detail to the Department of Commerce other than through and with the concurrence of the detailed employee's employing agency.

§ 0.735–41 Inquiries and exceptions.

(a) Inquiries relating to legal aspects of the limitations set forth in or cited in or pursuant to this part should be submitted to the appropriate deputy counselor. Inquiries relating to other aspects of this part or regulations supplementary thereto should be referred to the appropriate personnel office.

(b) Within the limits of administrative discretion permitted to the Department, exceptions to the requirements of this part may be granted from time to time in unusual cases by the head of the operating unit, whenever the facts indicate that such an exception would promote the efficiency of the service. Each request for such an exception should be submitted in writing to the head of the operating unit concerned, and shall contain a full statement of the justification for the request. Reports concerning such requests, if approved, shall be forwarded to the program Secretarial Officer concerned and to the Assistant Secretary for Administration by the head of the operating unit concerned.

Date: October 30, 1967.

DAVID R. BALDWIN,
Acting Secretary of Commerce.

APPENDIX A—STATUTES GOVERNING CONDUCT OF FEDERAL EMPLOYEES

There are numerous statutes pertaining to the ethical and other conduct of Federal employees, far too many to attempt to list them all. Consequently, only the more important ones of general applicability are referred to in this Appendix.

A. BRIBERY AND GRAFT

.01 Title 18, U.S.C., section 201, prohibits anyone from bribing or attempting to bribe a public official by corruptly giving, offering, or promising him or any person selected by him, anything of value with intent (a) to influence any official act by him, (b) to influence him to commit or allow any fraud on the United States, or (c) to induce him to do or omit to do any act in violation of his lawful duty. As used in section 201, "Public officials" is broadly defined to include officers, employees, and other persons carrying on activities for or on behalf of the Government.

.02 Section 201 also prohibits a public official's solicitation or acceptance of, or agreement to take, a bribe. In addition, it forbids offers or payments to, and solicitations or receipt by, a public official of anything of value "for or because of" any official act performed or to be performed by him.

.03 Section 201 further prohibits the offering to or the acceptance by a witness of anything of value involving intent to influence his testimony at a trial, Congressional hearing, or agency proceeding. A similar provision applies to witnesses "for or because of" testimony given or to be given. The provisions summarized in this section do not preclude lawful witness fees, travel and subsistence expenses, or reasonable compensation for expert testimony.

B. COMPENSATION TO OFFICERS AND EMPLOYEES IN MATTERS AFFECTING THE GOVERNMENT

.01 Title 18, U.S.C., section 203, prohibits an officer or employee from receiving compensation for services rendered for others before a Federal department or agency in matters in which the Government is a party or is interested.

.02 Section 203 applies to a special Government employee as follows:

a. If the special Government employee has served in the Department of Commerce more than 60 days during the preceding period of 365 days, section 203 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in the Department of Commerce; or

b. If the special Government employee has served in the Department no more than 60 days during the preceding period of 365 days, section 203 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 203 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

C. ACTIVITIES OF OFFICERS AND EMPLOYEES IN CLAIMS AGAINST AND OTHER MATTERS AFFECTING THE GOVERNMENT

.01 Title 18, U.S.C., section 205, prohibits an officer or employee, otherwise than in the performance of his official duties, from:

a. Acting as agent or attorney for prosecuting any claim against the United States, or receiving any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

b. Acting as agent or attorney for anyone before any Government agency, court, or officer in connection with any matter in which the United States is a party or has a direct and substantial interest.

.02 Section 205 applies to a special Government employee as follows:

a. If the special Government employee has served in the Department more than 60 days during the preceding period of 365 days, section 205 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in the Department of Commerce; or

b. If the special Government employee has served in the Department no more than 60 days during the preceding period of 365 days, section 205 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 205 does not preclude:

a. An employee, if not inconsistent with faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings, in connection with those proceedings; or

b. An employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

.04 Sections 203 and 205 do not preclude:

a. An employee from acting as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee or which are the subject of his official responsibility, provided the head of the operating unit concerned approves; or

b. A special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with, or for the benefit of, the United States, provided the head of the operating unit concerned, with the approval of the appropriate program Secretarial Officer, shall certify in writing that the national interest so requires, and such certification shall be published in the FEDERAL REGISTER.

.05 Section 205 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

D. DISQUALIFICATION OF FORMER OFFICERS AND EMPLOYEES IN MATTERS CONNECTED WITH FORMER DUTIES OR OFFICIAL RESPONSIBILITIES; DISQUALIFICATION OF PARTNERS

.01 Title 18 U.S.C., section 207:

a. Provides that a former Government officer or employee, including a former special Government employee, shall be permanently barred from acting as agent or attorney for anyone other than the United States in any matter in which the United States is a party or is interested and in which he participated personally and substantially in a governmental capacity;

b. Bars a former Government officer or employee, including a special Government employee, of an agency, for a period of 1 year after his employment with it has ceased, from appearing personally as agent or attorney for another person before any court or agency in connection with a matter in which the Government has an interest and which was under his official responsibility at the employing agency (e.g., Department of Commerce) at any time within 1 year prior to the end of such responsibility; and

c. Prohibits a partner of a person employed by the Government, including a special Government employee, from acting as agent or attorney for anyone other than the United States in matters in which the employee participates or has participated personally and substantially for the Government or which are the subject of his official responsibility.

.02 Subparagraphs .01a. and .01b. of this section do not prevent a former officer or employee or special Government employee who has outstanding scientific or technical qualifications from acting as attorney or agent or appearing personally before the Department of Commerce in connection with a particular matter in a scientific or technological field if the Assistant Secretary of Commerce for Science and Technology shall make a certification in writing, published in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former officer or employee.

E. ACTS AFFECTING A PERSONAL FINANCIAL INTEREST

.01 Title 18, U.S.C., section 208 prohibits an officer or employee, including a special Government employee, from participating personally and substantially in a governmental capacity in any matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

.02 Section 208 does not apply:

a. If the officer or employee first advises the head of the operating unit concerned of the nature and circumstances of the matter involved, makes full disclosure of the financial interest, and receives in advance a written determination made by such official, with the approval of the appropriate program Secretarial Officer, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the officer or employee; or

b. If, by general rule or regulation published in the FEDERAL REGISTER, the financial interest has been exempted from the requirements of section 208 as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

F. SALARY OF GOVERNMENT OFFICIALS AND EMPLOYEES

.01 Title 18, U.S.C., section 209, prohibits:

a. An officer or employee from receiving any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the United States from any source other than the Government of the United States, except as may be contributed out of the treasury of a State, county, or municipality; and

b. Any person or organization from paying, contributing to, or supplementing the salary of an officer or employee under circumstances which would make its receipt a violation of subparagraph .01a. of this section.

.02 Section 209:

a. Does not prevent a Government employee from continuing to participate in a bona fide pension or other welfare plan maintained by a former employer;

b. Exempts special Government employees and employees serving the Government without compensation, and grants a corresponding exemption to any outside person paying compensation to such individuals; and

c. Does not prohibit the payment or acceptance of sums under the terms of the Government Employees Training Act.

G. CODE OF ETHICS FOR GOVERNMENT SERVICE

"Code of Ethics for Government Service," House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12 of July 11, 1958, which reads as follows:

"Any Person in Government Service Should:

"Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

"UPHOLD the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

"GIVE a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

"SEEK to find and employ more efficient and economical ways of getting tasks accomplished.

"NEVER discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

"MAKE no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"ENGAGE in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

"NEVER use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

"EXPOSE corruption wherever discovered.

"UPHOLD these principles, ever conscious that public office is a public trust."

H. PROHIBITIONS

.01 The prohibition against lobbying with appropriated funds (18 U.S.C. 1913) reads as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation, but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than 1 year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

.02 The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). An individual may not accept or hold a position in the Government of the United States if he:

a. Advocates the overthrow of our constitutional form of government;

b. Is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

c. Participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

d. Is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

.03 The prohibition against employment of a member of a Communist organization (50 U.S.C. 784).

.04 The prohibitions against (a) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (b) the disclosure of confidential information (18 U.S.C. 1905). Each employee who has access to classified information, e.g., confidential, secret, or top secret, or to a restricted area is responsible for knowing and for complying strictly with the security regulations of the Department of Commerce. (See Administrative Order 207-2.)

.05 The prohibition against employment in the competitive civil service of any person who habitually uses intoxicating beverages to excess (5 U.S.C. 7352).

.06 The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)). No employee may willfully use or authorize the use of a Government-owned or Government-leased passenger motor vehicle or aircraft for other than official purposes.

.07 The prohibition against the use of the franking privilege to avoid payment of postage on private mail (18 U.S.C. 1719).

.08 The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

.09 The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001). An employee in connection with an official matter shall not knowingly and willfully conceal or cover up a material fact or falsify official papers or documents.

.10 The prohibition against multilating or destroying a public record (18 U.S.C. 2071). No employee may conceal, remove, mutilate, or destroy Government documents or records except for the disposition of records in accordance with law or regulation.

.11 The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508). Falsely making, altering or forging, in whole or in part, any form of transportation request is prohibited.

.12 The prohibitions against:

a. Embezzlement of Government money or property (18 U.S.C. 641). No employee may convert any Government money or Government property to his own use or the use of another person.

b. Failure to account for public money (18 U.S.C. 643). Any employee, who, having received public money which he is not authorized to retain, fails to render his accounts for same as provided by law, is guilty of embezzlement.

c. Embezzlement of the money or property of another person in the possession of the employee by reason of his employment (18 U.S.C. 654). An employee is prohibited from embezzling or wrongfully converting for his own use the money or property of another which comes under his control as the result of his employment.

.13 The prohibition against unauthorized removal or use of documents relating to claims from or by the Government (18 U.S.C. 285). No employee, without authority, may remove from the place where it was kept by authority of the United States any document, record, file, or paper intended to be used to procure the payment of money from or by the United States or the allowance or payment of any claim against the United States, regardless of whether the document or paper has already been used or the claim has already been allowed or paid; and no employee may use or attempt to use any such document, record, file, or paper to procure the payment of any money from or by the United States or the allowance or payment of any claim against the United States.

.14 The prohibition against proscribed political activities, including the following, among others:

a. Using official authority or influence for the purpose of interfering with or influencing the result of an election, except as authorized by law (5 U.S.C. 7324);

b. Taking an active part in political management or in political campaigns, except as authorized by law (5 U.S.C. 7324);

c. Offering or promising to pay anything of value in consideration of the use of, or promise to use, any influence to procure any appointive office or place under the United States for any person (18 U.S.C. 210);

d. Soliciting or receiving, either as a political contribution or for personal emolument, anything of value in consideration of a promise of support or use of influence in obtaining for any person any appointive office or place under the United States (18 U.S.C. 211);

e. Using official authority to interfere with a Federal election (18 U.S.C. 595);

f. Promising any employment compensation, or other benefit made possible by Act of Congress in consideration of political activity or support (18 U.S.C. 600);

g. Action by a Federal officer or employee to solicit or receive, or to be in any manner concerned with soliciting or receiving, any contribution for any political purpose whatever from any other Federal officer or employee or from any person receiving compensation for services from money derived from the Treasury of the United States (18 U.S.C. 602);

h. Soliciting or receiving (by any person) anything of value for any political purpose whatever on any Government premises (18 U.S.C. 603);

i. Soliciting or receiving contributions for political purposes from anyone on Federal relief or work relief (18 U.S.C. 604);

j. Payment of a contribution for political purposes by any Federal officer or employee to another Federal officer or employee (18 U.S.C. 607); and

k. Payment of a political contribution in excess of statutory limitations and purchase of goods, commodities, advertising, or articles the proceeds of which inure to the benefit of certain political candidates or organizations (18 U.S.C. 608).

.15 The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

APPENDIX B—POSITION CATEGORIES, GRADE GS-13, AND ABOVE, REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) Auditors.

(2) Attorneys other than attorneys engaged in patent examining or trademark examining operations.

(3) Heads of divisions or comparable organization units, GS-15 or above.

(4) Heads of field offices or installations, GS-15 or above.

(5) Employees in positions involving assigned duties and responsibilities which require the incumbent to make fact-finding determinations or to exercise judgment in recommending a decision or an action in regard to:

a. Evaluation, appraisal, or selection of contracts or sub-contractors, prospective contractors or prospective subcontractors, proposals of such contractors or subcontractors, the activities performed by such contractors or subcontractors, or determination of the extent of compliance of such contractors or subcontractors with contract provisions.

b. Negotiation, modification, or approval of contracts or subcontracts.

c. Evaluation, appraisal, or selection of prospective project sites, or locations of work or activities, including real property proposed for acquisition by purchase or otherwise.

d. Inspection and quality assurance of material, products, or components for acceptability.

e. Review or approval for access permits.

f. Technical planning or design which involves the preparation of specifications or technical requirements.

g. Negotiation of agreements for cooperation or implementing arrangements with foreign countries, international organizations, or non-Federal enterprises.

h. Analysis, evaluation, or review of license applications.

i. Analysis, evaluation, or review of licensees' compliance with Department of Commerce regulations and requirements.

j. Utilization or disposal of excess or surplus property.

k. Procurement of materials, services, supplies, or equipment.

l. Authorization or monitoring of grants or subsidies to educational institutions or other non-Federal enterprises.

m. Audit of financial transactions.

n. Promulgation of safety standards, procedures, and hazards evaluation systems.

o. Other activities where the decision or action has a substantial economic impact on the interests of a non-Federal enterprise.

APPENDIX C—POSITION CATEGORIES BELOW GS–13 REQUIRING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS BY INCUMBENTS

(1) Employees in the field service of the Maritime Administration who are in the following categories of positions:

a. Shipbuilding inspector.
b. Marine surveyor.
c. Finance and supply officer.

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